

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
OCTOBER 15, 2020**

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

**Members Excused:** Dan Melville

**Others Present:** Dennis Scibetta, Linda Judd (via zoom), Jack Barton (via zoom)

**Public Present:** Rich Giraulo, Landtech, Roger Langer, Christopher Janel, Eric Basset, Jason Klotz, Carolyn Hueber, Andrea Izyk, Terry Tice, Greg Ingham, Pat Lloyd, Rich Maier, Sean Kelley, Shane Pfeffer, Juan Ruiz, Jim Smith, Francis Zucco

The meeting was called to Order by Chairperson Robillard at 7:00 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; four members are present and a quorum of three is required to pass a motion.

**TABLED FROM THE AUGUST 20, 2020 MEETING**

**1. ROBERT CHRIST – 1060 HILTON PARMA CORNERS ROAD**

The application of Robert Christ, owner, for 2 area variances at 1060 Hilton Parma Corners Road, as well as modification of the existing use variance. The applicant is proposing to construct a 3,600 square foot accessory structure and is requesting relief from Town Zoning Article V, section 165-31.C.2 which limits the size to 2,000 square feet and which also does not allow this structure without a primary structure. The proposed building will be constructed no closer than 350 feet to the road right-of-way. The existing use variance states that the buildings are to be 400' from the road right-of-way. This property is currently zoned Agricultural/Conservation (AC).

There was discussion about holding a workshop meeting at the property to give the Board and opportunity to view the site and talk to the applicant. This workshop will be advertised to allow the public the opportunity to attend and also the Town Attorney will attend. After discussion, the Board decided to schedule the workshop for Tuesday, October 27<sup>th</sup> at 5p.m. with an alternate date of Wednesday, October 28<sup>th</sup> in case of weather.

A **Motion** was made by Tim Thomas to **table** application of Robert Christ, owner, for 3 area variances at 1060 Hilton Parma Corners Road, as well as modification of the existing use variance to the November 2020 Zoning Board of Appeals meeting to afford the Town time to facilitate an on-site workshop and to give ample time to the Town Attorney to provide written information regarding the request to modify the existing use variance.

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

## **2. 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 on 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, submitted a new drawing of the building showing the location and size of the structure along with a detailed interior layout. The proposed structure would be 70x45 now for a total square footage of 3,150, which is less than the original request. Tim Thomas asked what the purpose of the structure is. Mr. Lloyd said it is to store 7 vehicles which are currently stored at his off-site business, his garage and in a trailer. Chairperson Robillard asked if there is a business at the residence. The applicant stated no. This will sit on a parcel that is over 9 acres. Chairperson Robillard asked how big the detached garage is. The applicant said it is 20x20 and houses pigs.

**Board Discussion:** Notifications were discussed at a prior meeting.

**Public Comment:** None

**Public Hearing:** Closed

Tim Thomas thanked the applicant for working with the Board in bringing the size of the structure more into compliance.

A motion was made by Tim Thomas to **approve** the application of Patrick and Evelyn Lloyd, owners, for 2 area variances at 214 Hamlin Parma Town Line Road to erect a 3,150 sq. foot accessory structure on the property that has an existing 400 sq. foot accessory structure, which would bring the total square footage of accessory structures to 3,550 sq. feet granting 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).

- The benefit cannot be achieved by other means feasible to the applicant. The applicant did a reasonable job of trying to reduce the size of the structure, the need has been substantiated as 7 collectible vehicles are being store off-site and this will allow him to bring these back to the property for storage and provide ample room to do maintenance.
- There will be no undesirable change in neighborhood character or to nearby properties. The accessory structure sits on approximately 9 acres and will be located at least 700' off the road. Because it sits so far off the road on such a large

parcel the issue regarding the structure being subordinate to the principal building will be negligible.

- The request is substantial; however the information provided shows the need for the storage and is substantiated.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. 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 (4-0) (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac: Excused: Dan Melville).**

### **NEW BUSINESS**

#### **3. SHANE PFEFFER- 420 MOUL ROAD**

The application of Shane Pfeffer, owner, for a Special Permit at 420 Moul Road. The owner is proposing to operate a home business for the sale and transfer of firearms. This property is currently zoned Agricultural/Conservation (AC) which allows Home Businesses with a Special Permit in accordance with Town Zoning Article 9, subsection 165-79.1.

Shane Pfeffer, owner, explained that he has run this business since 2013. The Special Permit expired and due to COVID issues he did not get this renewed. Chairperson Robillard noted that this expired in July 2019, way before COVID and that the Town made multiple attempts to contact him. The applicant stated he did not get any renewal paperwork from the Town until January 2020 and then he received a cease and desist letter saying the Special Permit had not been renewed by the Board. He stopped operating the business at that time and currently has no items to sell or transfer in his possession. Tim Thomas noted that the applicant shares in the responsibility of making sure they renew their Special Permits on time whether they get a letter from the Town or not.

**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. There was a letter in the file.

Dennis Scibetta read a letter from Linda Judd. Linda Judd stated that she has received complaints from neighbors of the applicant. They have concerns regarding shooting of guns from dusk to dawn, Fed-Ex packages being left at the front door, packages left at the house for pick-up and firearms in general including his lack of renewing the Special Permit. The applicant said he only shoots his own guns; no customers are shooting guns on his property. He never shoots any guns after dark, he has a backstop he uses and he is not the only one that shoots guns in the area. The DEC regulates where and when you can shoot and the applicant stated that he is aware of the rules and follows them. As far as packages, FED-EX and UPS by law cannot leave firearm deliveries without a signature so if there are any packages outside then they are personal and not firearms. When he makes a delivery of a firearm he cannot leave them outside he has to personally hand it to the person.

**Public Comment: None**

**Jim Smith**, North Avenue, wants to know what control/access measures are taking place for safety reasons and stated that he hears a lot of gunfire near dusk in the area. Mr. Pfeffer stated that he has an alarm system, 4 cameras on the property and a separate locked storage room. As far as the gun fire, he does not allow customers to test weapons and he typically works 3-11pm with two days off, he does not shoot after dusk as he is unable to see the target.

**Public Hearing: Closed**

A motion was made by Tim Thomas to **approve** the application of Shane Pfeffer, owner, for a Special Permit at 420 Moul Road to operate a home business for the sale and transfer of firearms. This property is currently zoned Agricultural/Conservation (AC) which allows Home Businesses with a Special Permit in accordance with Town Zoning Article 9, subsection 165-79.1. The following conditions apply:

1. Hours of operation: Monday through Saturday, 9a.m. to 8p.m. by appointment only.
2. No signage, external storage or goods on display.
3. Subject to the inspection of the Fire Inspector and the Zoning Enforcement Officer.
4. No on-street parking.
5. Applicant can have inventory on the premises as per NYS guidelines.
6. Applicant must maintain a continuous FFL License during the period of the Special Permit and provide the current license to the Town.
7. Applicant authorized to have storage in the upstairs for firearms awaiting pick up.
8. Renewable in six months, April 2021.

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

**4. GERALDINE AND GREG INGHAM – 811 MANITOU ROAD**

The application of Geraldine & Greg Ingham, owners, for an area variance at 811 Manitou Road. The owners are proposing to install a generator in the side yard with a setback of 4' and are requesting relief from Town Zoning Article VII, subsection 165-41.E.1, Schedule 1 which states that the side setback is to be 20 feet. This property is currently zoned Light Industrial (LI).

Greg Ingham, owner, explained that he is looking to have an emergency generator installed. It will be 5' from any window and 18" from the house. Corinne Zajac is concerned with any fumes with it being this close to the house/window. NYS Site Power will be doing the installation. Dennis Scibetta noted that these distances meet the requirements of the NYS Building Code. The house is built very close to the property lines and the panel box is on the side of the house of the proposed location.

**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. There are no letters in the file.

**Public Comment: None**

**Public Hearing: Closed**

A motion was made by Tim Thomas to **approve** the application of Geraldine & Greg Ingham, owners, for an area variance at 811 Manitou Road to install a generator in the side yard with a setback of 4' granting relief from Town Zoning Article VII, subsection 165-41.E.1, Schedule 1 which states that the side setback is to be 20 feet. This property is currently zoned Light Industrial (LI).

Using the balancing test the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. The home was built 4' from the property line and tapers back to 2' in the NW corner. This is the optimum location and keeps it off the property line but keeps it in compliance with the distance from the house as required by the NYS Building Code. This will also be on the same side of the house where the panel box is located which will keep any unnecessary expenses to a minimum for the applicant.
- There will be no undesirable change in neighborhood character or to nearby properties. These types of generators are common and with a little landscaping they fit right in.
- The request is not substantial because of how the home was constructed only 4' from the property line.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created and this is the optimum location and the service panel is on this side 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 (4-0) (Ayes:** Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac: **Excused:** Dan Melville).

#### **5. DOUG MILLER – 4618 RIDGE ROAD WEST**

The application of Doug Miller, owner, for 3 area variances at 4618 Ridge Road West. The owner is proposing to erect a 50.16 square feet changeable electronic freestanding advertising sign with a height of 20' and is requesting relief from 1) subsection 165.111.F which states in part that no sign shall be animated or flashing, 2) subsection 165-113.4.b which limits the area of freestanding signs to 32 square feet and 3) subsection 165-113.5 which limits the height of a freestanding sign to 16 feet. The property is currently zoned Highway Commercial (HC).

Jim Colombo, Skylight Signs, on behalf of the owner, explained that the owner has renovated that corner and is looking to erect an electronic sign that will further add to the appearance on the corner. The sign they are looking to install will have the time/temperature, has the capability of automatically dimming the brightness as the sun comes down and goes up. It could be used for Amber Alerts or Community Awareness messages.

Tim Thomas stated that he is not even sure the Board has the opportunity to listen to the application because the Code specifically states that "No sign shall be animated or flashing."

Mr. Colombo stated that the sign will fade in and out it will not be flashing. Tim Thomas said that the Code for Parma is not well developed when it comes to signs and he is concerned with setting a precedent. He had thought there would have been a change in the Code after the last sign application that the Board had in front of them which had the same issues.

**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. There was a letter in the file.

Dennis Scibetta read a letter from Larry Gurslin, Village resident, opposes the request. He feels that Parma businesses do not need huge flashing signs and this will only create a distraction for drivers. This will set a precedent in the community and would change the neighborhood character. Any hardship is self-created in this situation.

Dennis Scibetta did note that both the Town of Parma and Village of Hilton have approached Mr. Colombo about possible signage in the future. He would like to have more information and direction from the Town Board as to what kind of signs and locations would they allow in the Town and make those changes to the Code. He believes that while cost prohibitive there would be a precedent set if allowed.

Tim Thomas explained that he is not opposed to these types of signs, he has seen ones that are very nice; however, it would be hard for the Zoning Board to approve based on the criteria they have to use. His recommendation would be that the Town Board look at this portion of the code and provide more guidance to the Board to allow the Board to deal with this effectively. He feels this is another area where the code has not kept up with the times. Corinne Zajac said that she has some concerns with the application because of the location, which is a very busy intersection.

**Public Comment:**

**Sean Kelley**, resident, asked if there is anything in the code regarding a timer that could turn the sign off at a certain time of night. Mr. Colombo said that the sign cannot be turned off but it can be blacked out during certain hours.

**Public Hearing: Closed**

A motion was made by Tim Thomas to **table** the application of Doug Miller, owner, for 3 area variances at 4618 Ridge Road West. The owner is proposing to erect a 50.16 square feet changeable electronic freestanding advertising sign to the November 2020 Zoning Board of Appeals meeting to afford the applicant and vendor time to present their application to the Town Board so they can give additional guidance to the Zoning Board with a better path to follow when looking at sign requests.

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

**6. JOSEPH SORTINO - 1635-1637 MANITOU ROAD**

The application of Joseph Sortino, applicant, for an area variance and Special Permit at 1635-1637 Manitou Road. The applicant is proposing to construct (4) 250 feet long self-

storage buildings and is requesting relief from Town Zoning Article IX, subsection 165-71.C which states that no mini-warehouse structure shall exceed 200 feet in lineal building length. This property is currently zoned Light Industrial (LI) which allows mini-warehouse facilities with a Special Permit in accordance with Town Zoning Article VII, subsection 165-41.D.2.

Rick Giraulo, Landtech, on behalf of the owner, explained that the applicant's intent is to merge the two properties so that they will meet the dimensional requirement of a mini storage use. The intent is to develop 35,000 sq. ft. of self-storage units with the possible addition of a future building that is not part of this application but is shown on the plan. As part of the improvements there will be approximately 74,000 sq. ft. of pavement and about 65,000 sq. ft. of stone surface for parking in the area to the south of the storage units. This area will be used as open storage for the applicant's construction equipment for his business, including dumpster storage and supplies. Greenspace will still encompass 58% of the total site. The site will be surrounded by a 6' high chain link fence. Access into and out of the property will be controlled by a camera/keycard to access the gate during the hours of 6am to 10pm. Cameras will be placed throughout the property. This is actually considered a low intensity use for this property with very few vehicles in and out.

The code allows for 200' buildings; however, they are asking for 250' buildings to limit the amount of structures on the property and will reduce the impact on the closest residential zone which will be 65' away. The buildings will run east to west so as to minimize the impact and they will be single story buildings so the height will be 12'.

Tim Thomas asked if they intended to fence off the storage area for the construction equipment from the mini-storage. Mr. Giraulo stated that the owner wanted to allow access if people wanted to store larger things but the owner has enough of his own stuff to store in that area. With the amount of cameras around he did not think they would have an issue with people playing on the equipment. The intent is to move the owner's office to this property so he would be on-site to monitor that activity. Tim Thomas likes the project but has some concerns with the open storing of the construction vehicles in this stone area. He worries that if it is not taken care of it might turn into a dump. Mr. Giraulo noted that he has seen that happen and understands the concern but he doesn't see that happening with this client.

**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. There are no letters in the file.

Joe Sortino, owner, noted that during the summer the bulk of the equipment sits at construction sites, it would be during the winter when they would be using that storage at its highest. Currently he is renting space for his dumpster company. He is not concerned with things happening at the location because they know everyone coming and going into the premises. He assured the Board that he would not have this looking like a junk yard, his equipment is pretty new and he takes pride in his work. He has seen some storage locations that are not kept up.

Chairperson Robillard stated that the advertisement was for the linear length of the building and a Special Permit for the inside storage not for the outside storage of equipment. Chairperson Robillard noted the application does not address the inside storage either. Mr. Giraulo said it was in the letter of intent. Tim Thomas stated he has no objection to the storage facility but is not comfortable moving forward with the outside storage of the construction equipment without further clarification from the Town Attorney. Chairperson Robillard felt that the Board should not be addressing the outside storage because it was not in the application and it was not advertised.

**Public Comment: None**

**Public Hearing: Closed**

After further discussion, Dennis Scibetta noted that the Board can act on the current application for the mini-storage buildings and the Special Permit and ask the applicant to bring another application for the outside storage.

The Board had discussions about the Special Permit. The buildings will be accessible 7 days per week from the hours of 6am to 10pm. There will be no lighting except for what is on the storage units, no outside speakers and any signage will comply with the code.

A motion was made by Tim Thomas to **approve** the application of Joseph Sortino, applicant, for an area variance and Special Permit at 1635-1637 Manitou Road solely and exclusively to construct (4) 250 feet long self-storage buildings granting relief from Town Zoning Article IX, subsection 165-71.C which states that no mini-warehouse structure shall exceed 200 feet in lineal building length. This property is currently zoned Light Industrial (LI) which allows mini-warehouse facilities with a Special Permit in accordance with Town Zoning Article VII, subsection 165-41.D.2. This is not an approval for the outside storage of the construction equipment and it is strongly suggested that the applicant pursue another application for that request. They are also requesting a written determination from the Town Attorney regarding outside storage of construction equipment in a Light Industrial District.

Using the balancing test the Board finds the following relevant to the variance request:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant has done a nice job to buffer any residential areas close to the property that may be impacted by this application. This application reduces the number of buildings from 6 to 4, while making the buildings a little longer it keeps them away from any properties to the west.
- There will be no undesirable change in neighborhood character or to nearby properties. This is a light industrial district and this type of facility is allowed and the applicant plans to install a 6' fence with screening slats to obscure the vision of neighboring properties.
- The request is not that substantial. The reduction in buildings from 6 to 4 offsets the fact that the buildings will be longer and that will not be noticeable.
- There will be no adverse physical or environmental effects.

- The alleged difficulty is not self-created and creating the longer buildings will actually lessen the amount of square footage on the property. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Relevant to the Special Permit the following conditions apply:

1. The facility will operate 7 days/week.
2. The hours will be 6 am to 10 pm.
3. All lighting shall be directed away from neighboring properties.
4. There shall be no outside speakers.
5. All storage on the property shall be inside the storage units.
6. The Special Permit shall be renewable two years from the issuance of the C of O.

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

### **7. GARY AND CAROLYN HUEBER – 3 WINDING COUNTRY LANE**

The application of Gary and Carolyn Hueber, owners, for an area variance at 3 Winding County Lane. The applicants are proposing to construct a 12' x 14' accessory structure in the side yard and are 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 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).

Carolyn Hueber, owner, stated they are looking to construct this accessory structure to store kids toys and lawn equipment that is currently being stored in the garage. This will be placed behind the rear line of the house.

**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. There are no letters in the file.

**Public Comment: None**

**Public Hearing: Closed**

A motion was made by Tim Thomas to **approve** the application of Gary and Carolyn Hueber, owners, for an area variance at 3 Winding County Lane to construct a 12' x 14' accessory structure in the side yard granting 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 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).

Using the balancing test the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant is in the unfortunate position of having 2 front yards, 2 side yards and no rear yard.
- There will be no undesirable change in neighborhood character or to nearby properties. The shed will sit behind the rear line of the house and to people passing by it will appear to be in the rear yard.

- The request is not substantial because of how the code calls out corner lots.
- 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 far outweighs any detriment to the health, safety and welfare of the community.

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

### **8. ANDREA GRIFFITH IZYK – 1008 PARMA CENTER ROAD**

The application of Andrea Griffith Izyk, owner, for an area variance at 1008 Parma Center Road. The owner 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 to 3' in the front yard. This property is currently zoned Agricultural/Conservation (AC).

Andrea Izyk, owner, explained that she would like to have a 4' fence for the safety of her two dogs, one of which is a service dog. This property is on a corner lot at a busy intersection. The fence will sit behind a hedgerow and will not be seen from the road. It will follow the driveway.

**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. There are no letters in the file.

**Public Comment: None**

**Public Hearing: Closed**

A motion was made by Tim Thomas to **approve** the application of Andrea Griffith Izyk, owner, for an area variance at 1008 Parma Center Road to erect a 4' fence in the front yard granting relief from Town Zoning Article XVI, subsection 165-128.A.2 which limits the height of fences to 3' in the front yard. This property is currently zoned Agricultural/Conservation (AC).

Using the balancing test the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. This is a very unique lot on the corner of a very busy intersection. The property has 2 front yards, 2 side yards and no rear yard. The 4' fence is justified to help keep the two dogs protected including her service dog both from getting out of the yard but from other animals getting into the yard.
- There will be no undesirable change in neighborhood character or to nearby properties. This will sit behind vegetation and shrubs on the property and to people driving by it will appear that the majority of the fence is in the rear yard.
- The request is not substantial because of the unique nature of corner lots in the Town.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because of the unique nature of the corner lots. 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 (4-0) (Ayes:** Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac: **Excused:** Dan Melville).

**9. RANDALL & MARTHA GARDNER – 1780 CLARKSON PARMA TOWN LINE ROAD**

The application of Randall and Martha Gardner, owners, for an area variance at 1780 Clarkson Parma Town Line Road. The owners are proposing to construct a 24'x32' accessory building in the side yard and are 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 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 Agricultural/Conservation (AC).

There was no one at the meeting or on zoom to speak on behalf of this application. There has been no communication from them to the Building Department. Chairperson Robillard asked if they had done notifications. Dennis Scibetta stated he has the notifications.

A motion was made by Stephen Shelley to **table** the application of Randall and Martha Gardner, owners, for an area variance at 1780 Clarkson Parma Town Line Road to the November 2020 Zoning Board of Appeals meeting without prejudice to give the applicant an opportunity to speak for the application.

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

**10. KAREN STERLACE – 119 COLLAMER ROAD**

The application of Karen Sterlace, owner, for two area variances at 119 Collamer Road. The owner is proposing to construct a 1,140 sq. foot accessory building on vacant land is requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the size of accessory structures to 600 sq. ft. and which also does not allow an accessory structure without a primary structure. This property is currently zoned Medium Density Residential (MD).

Sean Kelley, the owner's son, explained that his mother owns the two parcels adjacent to each other and they would like to construct the accessory structure on the currently vacant land. His mom is going to look at merging the properties in the future because it will save her money on the taxes. There was a 4000 sq. ft. barn on the property that was dismantled in 2009. His mom does not have a garage or shed on either property so they looked at their options and decided to build another barn but on a smaller scale. They would be looking to store an RV, a boat, tools and other personal belongings. There would be no lighting or electric to the building, it would sit 50' – 60' off the road and would be camouflaged by trees.

Tim Thomas stated that he ok with the size of the structure but if the properties are merged then one of the variances go away. He would like to see that happen first if the applicant is looking into it anyways. After further discussion it was determined that if the applicant merges the properties there would be no need for any variance because the primary structure does not have a current garage.

**Board Discussion:** Dennis Scibetta reported notifications were mailed one day late so this will have to be tabled to the next meeting. The request was returned by Monroe County as a matter of local determination; this is a Type II action. There was one letter in the file.

Dennis Scibetta read a letter from Karen Britt. They think the request is excessive and will make the area feel commercial. They would like the application to be denied.

It was recommended that the owner withdraw the application and go to the Planning Board for a split/merge. The benefit will be they will not need to get a variance and they can move forward with building. The process through Planning Board should be fairly quick. After receiving the information from the Board, Mr. Kelley asked to withdraw the application so they can proceed through the Planning Board eliminating the need for any variances from the Zoning Board.

### **11. ERIC BASSET – 466 PECK ROAD**

The application of Eric Basset, owner, for four area variances at 446 Peck Road. The owner is proposing to construct a 100' x 120' pole barn with a wall height of 14 feet located in the front yard and is requesting relief from 1) Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. ft. 2) Town Zoning Article X subsection 165-82.C.2 which limits the wall height to 12 ft., 3) Town Zoning Article X, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard and 4) Town Zoning which states by definition that accessory structures shall be subordinate in area to the principal building which, in this case, is 3,527 sq. ft. This property is currently zoned Agricultural/Conservation (AC).

Chairperson Robillard stated that the Board did not get anything in their packets except the application. Eric Basset, owner, said he did drop it off to the Building Department. Tim Thomas said he is not comfortable acting on this because they did not receive any information and he did not do an inspection. Chairperson Robillard stated she did not do an inspection either and that she is looking for the design, placement and layout of the building and would not be in a position to make a decision at this time. The deadline to send the information in to the Building Department would have been September 26, 2020. Dennis Scibetta said the Board could collect as much information as they can and then table it until the next meeting.

**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. There are no letters in the file.

Tim Thomas asked what the purpose of the Barn is. The applicant stated it is farming and to house equipment and store hay. There will also be personal belongings stored in the structure, including classic cars, boats, and ATV's. Tim Thomas asked why this is not exempt since it is being used as part of a farming operation. The land is being farmed but the structure will house Mr. Basset's equipment and personal items. Tim Thomas asked if he would be renting the barn out. The applicant stated he would not, everything in there would be personally owned.

The applicant owns 40 acres of land and will sit 1,000 feet off the road behind a natural hedgerow. The applicant provided a layout to the Board and had a drawing with the dimensions on the building.

**Public Comment: None**

**Public Hearing: Closed**

Mr. Basset stated that he talked to his neighbor to the east, Mr. Bauman, who stated he has no issues with the approval of this barn.

After discussion, the consensus was that the Board members would like time to receive the information in their packet for next month so they can do a site inspection and be true to the process.

A motion was made by Tim Thomas to **table** the application of Eric Basset, owner, for four area variances at 446 Peck Road to the November 2020 Zoning Board of Appeals meeting. The purpose for the tabling is primarily due to the fact the Board did not receive the information that was submitted by Mr. Basset in the packets, which puts the Board at a deficit and proper inspections of the property were not able to be completed. The expectation is that the information will be in the packets for the November meeting. **Seconded** by Corinne Zajac. **Motion carried to approve (4-0) (Ayes:** Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac: **Excused:** Dan Melville).

## **12. CHRISTOPHER JANEL – 1219 MANITOU ROAD**

The application of Christopher Janel, owner, for an area variance and Special Permit at 1219 Manitou Road. The owner is proposing to construct a 323 sq. ft. addition to an existing 1,991 sq. ft. accessory building, making the total square footage on the property 2,314 ft., and is proposing to use this structure for his computer business. He is requesting relief from Town Zoning Article V, subsection 165-32.C.2 which limits the size of accessory structures to 1500 sq. ft. This property is currently zoned Rural Residential (RR) which allows Home Businesses with a Special Permit in accordance with Town Zoning Article 9, subsection 165-79.1.

Roger Langer, architect on behalf of the owner of Janel Tech, IT and Software Company explained that the Mr. Janel currently rents space for his business but is looking to save that expense and fix up an old shed/garage and use that space for his business. This will allow him to reinvest in his own property versus paying rent to an off-site property. The original structure was built in 1978 and the business will utilize less than 50% of the structure. The rest of the building will be used as shed space. The property is 15 acres and the addition to the property will be in the SW corner and will not be visible from the road. It will sit approximately 380' from the road and sits behind mature trees. The proposed location for the addition will make it easier to get the necessary utilities to the building. Behind the building is a large open field.

He is the sole employee/owner of the business and any employees/clients are remote. It is very rare for a client to come to his place of business and only if prospective clients would like to view his facility. The IT world works mostly remotely with companies and usually

any on-site visits are to the client's business. Most of his computer parts are sent to a secure UPS location not the house for tracking and security purposes.

Tim Thomas clarified that the addition portion will encompass the restroom, closet and utilities.

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

The business hours would be 9-5 pm. or as needed if there is an emergency. The only lighting would be interior lighting except for motion lights for security purposes only. The closest property is 150' away. Corinne Zajac asked if the parking lot will be paved. The applicant stated eventually but the double lane driveway would provide enough parking and room to enter and exit the property.

**Public Comment: None**

**Public Hearing: Closed**

A motion was made by Tim Thomas to **approve** the application of Christopher Janel, owner, for an area variance and Special Permit at 1219 Manitou Road. The owner is proposing to construct a 323 sq. ft. addition to an existing 1,991 sq. ft. accessory building, making the total square footage on the property 2,314 ft., and is proposing to use this structure for his computer business. He is requesting relief from Town Zoning Article V, subsection 165-32.C.2 which limits the size of accessory structures to 1500 sq. ft. This property is currently zoned Rural Residential (RR) which allows Home Businesses with a Special Permit in accordance with Town Zoning Article 9, subsection 165-79.1.

Using the balancing test the Board finds the following relevant to the area variance:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant desires to move his business to his property. The additional square footage is needed to provide him some basic necessities to work in the building including a restroom, utility room, server room as well as a janitor's closet. The addition to the building will not be visible from Manitou Road. The existing structure has been there since 1978 and has become the fabric of the neighborhood. The addition is being put on the west side of the building.
- There will be no undesirable change in neighborhood character or to nearby properties for the same reasons mentioned above. This will not be visible from the road.
- The request is not substantial. The square footage being added is negligible.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created; however, using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Relevant to the Special Permit the following conditions apply:

1. The business hours will typically be Monday-Friday 9-5 p.m. There may be an occasional afterhours needed when network issues or outages occur that the applicant has to address.
2. It would be a very rare occasion when clients might be at the property and deliveries would only be occasional.
3. This Special Permit will be renewable in October 2021.

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

### **OTHER DISCUSSION**

### **MINUTES OF SEPTEMBER 17, 2020**

The ZBOA minutes of September 17, 2020 were reviewed. **Motion** was made by Tim Thomas to approve the September 17, 2020 minutes as amended.

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

### **ADJOURNMENT**

There being no further business, a **Motion** was made by Corinne Zajac **seconded** by Stephen Shelley to adjourn the meeting at 10:55 p.m.

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

Respectfully submitted,

Carrie Fracassi  
Recording Secretary