

**TOWN OF PARMA
ZONING BOARD OF APPEALS
NOVEMBER 17, 2021**

Members Present: Greg Colavecchia, Dan Melville, Veronica Robillard

Members Excused: Stephen Shelley

Others Present: Mark Lenzi, Dave Ciufu

Public Present: Courtney Infantino, Mike Weldon, Sr., Pete Ritchie, Matthew Brooks, Terrance Roegner, Karen Buck, Chris Buck, Robert Rickus, John Nichols, Ann Williams.

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. She noted this is a five-member board with 3 seated members. A quorum of three is required to pass a motion.

MINUTES OF OCTOBER 20, 2021

The ZBOA minutes of October 20, 2021, were reviewed. **Motion** was made by Dan Melville to approve the October 20, 2021, minutes as presented. **Seconded** by Greg Colavecchia. **Motion carried to approve (3-0) (Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard; **Excused:** Stephen Shelley).

TABLED FROM OCTOBER 20, 2021

1. COURTNEY INFANTINO, OWNER OF 410 HILL ROAD

The applicant is requesting relief from Town Zoning, Article XVI, subsection 165-128(B)(2) to place a 5' fence and a 6.75' tall gate in the front yard. Town Code states fences may be erected up to 4' within the side and rear yards and up to 3' in the front yard. The property is zoned Agricultural Conservation.

This application was tabled at the last meeting to re-advertise with the correct height. The applicant stated in an effort to work with the Board she is requesting a lowered height of 4'10" versus 5'6" requested previously; the gate would remain 6'6". Greg Colavecchia asked the applicant to review the reasons for the fence as was discussed at the last meeting. The applicant stated mostly for protection from people coming into the yard, safety of pets and children and they want to make the property look nice.

Chairperson Robillard said she does not understand why the fence portion cannot be 3' per code. She does not see a need for higher since there is invisible fencing on the property. The applicant stated dogs/animals could still enter the property. This fence will run only 72' to

the south and 14' to the north and will not enclose the yard meaning people/dogs would be able to get around it if they wanted to. The applicant feels that this along with natural vegetation on the property will deter that. The applicant said she thought it would look odd if there was a 6'6" gate with a 3' fence. Chairperson Robillard feels this will look good and be just as functional at 3'.

Greg Colavecchia stated that with the argument provided tonight he does not see that the applicant's situation is any different than any other resident in the Town with children or dogs. There would be no difference in protection if a car came into the property with a 3' fence as opposed to a 5' fence. He explained that the Board is charged with granting the minimum necessary based on the code. If they were to grant everything than there may as well not be a code. The applicant said that is why she is trying to come closer to the code and she feels it will enhance the neighborhood. He also felt that her reasons to have this become less credible because the property will not be enclosed. He does feel aesthetically it will look nice.

Public Comment: None

Public Hearing Closed

Dan Melville said he does not have an issue with this since it will not be enclosing the property and it is more a decorative entranceway/landscaping. He did not see why the fence height is an issue if the Board is willing to approve a 6'6" gate. He was happy to see the applicant reduced the height a little bit; he would like he fence at 4'.

Mark Lenzi asked the Board to consider the impact on the neighborhood; this would look odd at 3' in his opinion. This would be aesthetically pleasing for the neighborhood and more decorative. He felt that if this is approved it would not mean you have to approve all fences because this is a very different application. Chairperson Robillard is having a hard time getting past the criteria the Board is charged with following.

There was further discussion about a 4' fence. The applicant would have to talk to her husband; they would have to pick a different style fence. The Board feels more comfortable with a 4' fence.

A motion was made by Dan Melville to **approve** the application of Courtney Infantino, owner of 410 Hill Road, and **grants** relief from Town Zoning Article XVI, subsection 165-128 (B)(2) to place a 4' fence and a 6.75' tall gate in the front yard. Town Code states fences may be erected up to 4' within the side and rear yards and up to 3' in the front yard. The property is zoned Agricultural Conservation. Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. The applicant is trying to keep pets and children contained and other animals out of the

yard. The site map on file at the Town references how long the fence is to the north and south.

- There will be *no* undesirable change in neighborhood character or to nearby properties. The fence and gate are decorative in nature and will not enclose the whole yard.
- The request *is somewhat* 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 Greg Colavecchia. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

NEW BUSINESS

2. JOHN NICHOLS, OWNER OF 66 NORTH AVENUE

The applicant is requesting relief from Town Zoning, Article X, subsection 165-82 BB to allow chickens to be kept on a property smaller than 3 acres. Town Code states lots must be 3 acres or more for the keeping of animals other than ordinary household pets. This property is currently zoned Rural Residential.

Board Discussion: Mark Lenzi reported notifications were in order, the request was returned by Monroe County with no comment. This is a Type II action; no further review required. The building department feels the request is reasonable without roosters.

John Nichols, owner said they would like to keep their six chickens on the property. They do not have any roosters and will not be getting a rooster. Chairperson Robillard asked why six chickens. The applicant stated a flock of chickens is six and that is how they are bought. They have a coop on the property his daughters maintain, and they roam the yard during the day. Dan Melville is concerned with diseases they may carry.

Public Comment:

Ann Williams asked how big the property is. Mr. Nichols said 1.5 acres.

Matt Brooks said that chickens will not normally enter the road. There is controversy with the CDC and chickens, but free-range chickens are the best and a huge benefit health wise versus buying eggs at the store. This is a good learning process for their daughters.

Mike Weldon asked how the applicant will replace chickens if something happens to one or two and they can only purchase six at a time. The applicant said there are ways to replace one or two without buying six. They recommend the initial purchase be for 6 for the chicken's health.

There was a letter from **Kevin and Barbara Arganbright** supporting the application for chickens; they have no issues or concerns.

Public Hearing Closed

A motion was made by Greg Colavecchia to **approve** the application of John Nichols, owner of 66 North Avenue, to allow chickens to be kept on a property smaller than 3 acres. Town Code stats lots must be 3 acres or more for the keeping of animals other than ordinary household pets. This property is zoned Rural Residential. Considering the balancing test, the Board finds the following with the conditions that there will be no roosters kept with respect to the application and it will be limited to 6 chickens at any such time:

- The benefit *cannot* be achieved by other means feasible to the applicant. His lot is 1.5 acres and there is no way to increase that. It should be noted that the land behind him is vacant.
- There will be *no* undesirable change in neighborhood character or to nearby properties as evidenced by the letter of support.
- The request *is somewhat* substantial and arbitrary. He is not sure how you would answer that with this type of request.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty *may be* self-created; however, this is the property he lives at. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Dan Melville. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

3. PETER RITCHIE, OWNER OF 1390 CLARKSON PARMA TOWNLINE ROAD

The applicant is requesting a Special Permit from the Zoning Board of Appeals in accordance with Town Zoning Article V, subsection 165-31 (D)(1) for farmworker housing. The Special Permit request is subject to the requirements of Town Zoning, Article IX, subsection 165-56. The property is zoned Agricultural Conservation.

Peter Ritchie, owner, states he would like a Special Permit allowing him to supply housing for his farm workers. His farming operation has grown over the years, and he needs to have additional help on site. This would be a 76x16 trailer and would sit close to the main barn on the property. This is a year-round operation and so they would possibly be used all year, at this point it would be seasonal. Dan Melville said the concern would be this turning into a rental property. The applicant understands that cannot happen. The location of the structure would not be seen from the road. The existing driveway access the building and utilities are already connected. The structure will meet all building codes and have a foundation.

Mark Lenzi said the local fire departments support the request and placement of the structure and if a licensing agency does not approve of the request for whatever reason the Special Permit does not get issued.

Dan Melville does not have an issue with this application.

Public Comment: None

Public Hearing Closed

Board Discussion: Mark Lenzi reported notifications were in order, the request was returned by Monroe County with standard comment returned. Permits are required from the Monroe County Health Department. This is a Type II action; no further review required. Mark Lenzi noted he will have to get permits from Monroe County Health Department and any other required agencies. Town Engineer comments were reviewed and should be added to the map and the updated map provided to the Building Department.

The Board reviewed the Short Form SEQR Part 1, 2 and 3 and will become part of the file.

A **motion** was made by Dan Melville to approve the SEQR. This is an unlisted action and there will be no adverse environmental impact. A negative declaration was declared. The motion was **seconded** by Greg Colavecchia. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

A **motion** was made by Dan Melville to **approve** the application of Peter Ritchie, owner, for a Special Permit at 1390 Clarkson Parma Town Line Road for farmworker housing in accordance with Town Zoning Article V, subsection 165-31 (D)(1). The Special Permit request is subject to the requirements of Town Zoning Article IX, subsection 165-56. The property is zoned Agricultural Conservation. This Special Permit is approved with the following conditions:

1. The applicant to obtain all local, county and state permits as required.
2. The applicant to add all Town Engineer comments to the map and provide updated map to the Building Department.
3. The Special Permit is renewable 2 years from issuance of the C of O.
4. This Special Permit is issued to Peter Ritchie, owner, and is not transferable.

The motion was **seconded** by Greg Colavecchia. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

4. MATT BROOKS, OWNER OF 56 PARMA CENTER ROAD

The applicant is requesting relief from Town Zoning, Article V, subsection 165-32 C(2) to allow the construction of a 392 sq. ft addition onto an existing 1,428 sq. ft. pole barn. The total size of the accessory structure is proposed to be 1,736 sq. ft. Town Code allows for a total of 1,500 sq. ft. for accessory structures. The property is zoned Rural Residential.

Matt Brooks, owner, said he would like to build the addition to the existing barn so he can have a workshop/storage area for his tools, so they are not sitting outside in the weather. He owns 44 acres. This sits over a half mile from the road and is not in direct site of any neighboring properties.

Board Discussion: Mark Lenzi reported notifications were in order, the request was returned by Monroe County with comments as a matter of local determination and is a Type II action; no further review required. There are no letters in the file. The Building Department feels this is a reasonable request because of the distance back from the road and to protect his equipment.

Public Comment: None

Public Hearing Closed

A motion was made by Dan Melville to **approve** the application of Matt Brooks, owner of 56 Parma Center Road, and **grants** relief from Town Zoning Article V, subsection 165-32 C(2) to allow the construction of a 392 sq. ft. addition onto an existing 1,428 sq. ft. pole barn. The total size of the accessory structure is proposed to be 1,736 sq. ft. Town Code allows for a total of 1,500 sq. ft. for accessory structures. The property is zoned Rural Residential. Using the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. The applicant has demonstrated the need to store his equipment inside.
- There will be *no* undesirable change in neighborhood character or to nearby properties. This addition is 1000 feet from the road.
- 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 Greg Colavecchia. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

5. CHRISTOPHER & KAREN BUCK, OWNERS OF 565 PECK ROAD

The applicant is requesting a Special Permit from the Zoning Board of Appeals in accordance with Town Zoning Article V, subsection 165-32 (D)(12) for a 1,287 sq. ft. accessory apartment. The Special Permit request is subject to the requirements of Town Zoning, Article IX, subsection 165-76. The accessory apartment is proposed to be larger than the allowed 550 sq. ft. The property is zoned Rural Residential.

Mark Lenzi said that notifications were not sent out by the applicant until today before the meeting. The applicant stated they did not receive the instructions from the Building Department. Mark Lenzi noted that all applicants were mailed the information on the same day and the other applicants did receive and mailed their notifications on time. They mailed them on the way to tonight's meeting and showed up at the meeting with the letter.

Notifications were not accepted at that time and will have to be mailed timely prior to the next meeting.

A motion was made by Dan Melville to **table** the application of Christopher and Karen Buck, owners, for a Special Permit at 565 Peck Road in accordance with Town Zoning Article V, subsection 165-32 (D)(12) for a 1,287 sq. ft. accessory apartment to the December 2021 Zoning Board of Appeals meeting to afford the applicant time to mail the notifications timely.

The motion was **seconded** by Greg Colavecchia. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville to adjourn the meeting at 8:45 p.m. **Seconded** by Greg Colavecchia. **Motion carried to approve (3-0)**

Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard

Excused: Stephen Shelley

Respectfully submitted,

Carrie Fracassi
Recording Secretary