

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
MAY 18, 2022**

**Members Present:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams, Jack Barton, Alternate

**Others Present:** Mark Lenzi, Dave Ciufu

**Public Present:** Cindy Palmer, Daniel Schum, Esq., Kevin Brongo, John Skok, Valerie Maslowski, Crystal Lamphron, David Kerber, Charles Riley, Eric Simms, John Yunger, Andrea Yunger, Joseph Polimeni, Vince Ventimiglia, Floyd Hopkins, Keith Morgan

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. This is a five-member board with 5 seated members and the alternate present. A quorum of three is required to pass a motion.

**MINUTES OF APRIL 20, 2022**

The ZBOA minutes of April 20, 2022, were reviewed. **Motion** was made by Dan Melville to approve the April 20, 2022, minutes as corrected.

**Seconded** by Stephen Shelley

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

**TABLED FROM THE APRIL 20, 2022 MEETING**

**1. PETER McMANN, OWNER OF 5408 RIDGE ROAD WEST**

The applicant is requesting relief from Town Zoning, Article VI, subsection 165-40 D, Special Permitted Uses, to allow the use of an animal boarding facility subject to, Article IX, subsection 165-57. Owner is requesting relief from Article IX, subsections 165-57 (A) & (D) to allow the animal boarding facility on a lot with 3.96 acres and with a building located approximately 20' from the road and 30' from the side property line. The property is zoned Highway Commercial.

This application was tabled for more information at the April 2022 Zoning Board meeting at the request of the applicant.

Daniel Schum, Esq., on behalf of the applicant, said there was an error in the original application and was advertised with the wrong address; he wishes to withdraw this application on behalf of his client. The same request will be discussed under new business and has been noticed properly. The Board accepted the withdrawal.

**2. TODD OPHARDT, OWNER OF 518 BURRITT ROAD**

The applicant is requesting relief from Town Zoning, Article X, subsections 165-82 (C) (2) & Article V, subsection 165-32 (C) (2) for the proposed construction of a 2280 sq. ft. two-story

pole barn with 18-foot-tall walls. Town Code allows a one-story accessory structure limited to 1500 sq. ft. with a wall height not to exceed 12 feet. This property is zoned Rural Residential.

This was tabled at the April meeting to allow the applicant time to provide more information to the Building Department.

Mark Lenzi said he received a letter from the applicant asking to withdraw the application at this time. The Board accepted the withdrawal.

### **NEW BUSINESS**

#### **3. PETER McMANN, OWNER OF 5412 RIDGE ROAD WEST**

The applicant is requesting relief from Town Zoning, Article VI, subsection 165-40 D, Special Permitted Uses, to allow the use of an animal boarding facility subject to, Article IX, subsection 165-57. Owner is requesting relief from Article IX, subsections 165-57 (A) & (D) to allow the animal boarding facility on a lot with 3.96 acres and with a building located approximately 20' from the road and 30' from the side property line. The property is zoned Highway Commercial.

Daniel Schum, Esq., on behalf of the applicant asked for this application to be tabled for three months while the Building Department and Town review the existing code and discuss making an update to allow dog grooming and animal boarding in the Highway Commercial District.

There was discussion about tabling it for a shorter time. David Ciufo, Town Board Liaison, said that the Town Board discussed this last night and felt three months was fair to allow the Town Board time to review, discuss, hold proper hearings and to consider this without rushing.

**A motion** was made by Dan Melville to **table** the application of Peter McMann, owner of 5412 Ridge Road West to allow the use of an animal boarding facility subject to Article IX, subsection 165-57 for a period of three months at the request of the applicant to allow the Town Board time to review the Town Code and consider allowing this type of business in Highway Commercial.

**Seconded** by Greg Colavecchia

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

#### **4. DAVID KERBER, OWNER OF 1287 HILTON PARMA CORNERS 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) (7) and subsection 165-31 (E) 1 for an 837 sq. ft. accessory apartment encroaching into the right-side setback. 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 required 550 sq. ft. and will be placed 45' from the property line. This property is zoned Agricultural/Conservation.

Crystal Lamphron, owner, said her grandmother lives down south and she would like to move her up here to be with family since her husband passed away. They would like the accessory apartment so that she can be close but still maintain her own space. They are requesting the size because her grandma is coming from a 2800 sq. foot home, and they want her to be comfortable

in her space. There was discussion about the second-floor storage area; the storage area square footage is not included in the living space. The square footage of the house is 1,700 and the living space would be 720 sq. ft. There was discussion about the side setback and the legal notice; what was advertised and how clear the legal was to the public. Mark Lenzi feels the notice lets the public know what relief is being asked for and lists the code sections and if anyone wants further information, they can contact the Town.

**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. There were no letters in the file.

**Public Comment:** None

**Public Hearing Closed**

**A motion** was made by Stephen Shelley to **approve** the application of David Kerber, owner of 1287 Hilton Parma Corners Road for a Special Permit in accordance with Town Zoning Article V, subsection 165-31 (D) (7) and subsection 165-31 (E) 1 for an 837 sq. ft. accessory apartment encroaching into the right-side setback. This 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 required 550 sq. ft. and will be placed 45' from the property line. This 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. With regards to the size; the applicant has shown that they need this amount of space. The addition will be 45 ft from the property line; 50 ft is required by the code.
- There will be *no* undesirable change in neighborhood character or to nearby properties.
- The request *is* substantial.
- There will be *no* adverse physical or environmental effects.
- 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 Dan Melville

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

*With regards to the Special Permit:*

**A motion** was made by Stephen Shelley to **approve** the application of David Kerber, owner, for a Special Permit at 1287 Hilton Parma Corners Road for an accessory apartment in accordance with Town Zoning Article 9, subsection 165-76. The accessory apartment will be occupied by Gail Suzanne Galbo and will be renewable May 2024. The property is currently zoned Agricultural/Conservation which allows this use with a Special Permit.

**Seconded** by Dan Melville

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

**5. KEVIN BRONGO, OWNER OF 184 PINE HILL ROAD (PINE HILL EST. SUBD)**

The applicant is requesting relief from Town Zoning Article X, subsection 165-33 (E) (1), to allow a 40 ft. front setback for the proposed single-family dwellings on Lots 2 through 21 (all new lots of the subdivision). Town Code requires a front setback for single-family nonfarm dwellings of 60 ft. This property is zoned Medium Density Residential.

Daniel Schum, Esq., explained the project to the Board. Dan Melville asked if the project had been to Planning Board. Mark Lenzi said yes. The Town requires a 60' setback and a 60' setback was approved by the Planning Board and the subdivision is under construction. Attorney Schum said the request is because of the wants of buyers. He explained there is a 17' grassy area where the utilities will be buried, there will be no sidewalks, one way in and out of the subdivision and will not have any impact on Pine Hill. He explained the septic system dictates where the house can be placed on the property and in at least half of them the septic is in the backyard; so, placement of the house benefits the buyers if moved forward of the 60' setback to accommodate the septic systems; giving buyers a larger backyard. Daniel Schum, Esq., doesn't feel there will be an undesirable change to the neighborhood, it will enhance the property for buyers, and he feels this will not be noticeable to people passing by. The option will be there for buyers to place the house further back if they would like. People looking to purchase in this subdivision have expressed an interest to have the houses moved forward so they would have more of a backyard. He feels there will be no adverse effect as this is a standalone subdivision and it is not self-created but created by the demand of buyers wanting to purchase in the subdivision. The benefit to the applicant is he is able to offer this option to buyers.

**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. There were no letters in the file. Mark Lenzi noted that there can be tough issues in a subdivision when septic systems have to be placed in the back of the property.

Chairperson Robillard said these are normally handled on a case-by-case basis and each situation is different. She is concerned, as it feels to her, that the Board is being asked to legislate for this subdivision not give relief. She feels it is inappropriate for the Board to approve this for all the lots when this might not be an issue on all the lots. Greg Colavecchia asked which lots have septic systems in the rear of the lot. The builder did not know exactly, he thought at least half. Greg Colavecchia asked how many have sold. The builder stated one. Greg Colavecchia asked if anyone has said they want to build but only if this can be done and which lots. Mr. Brongo said Lot 19 has interest in having a ranch, but it would not fit if placed properly by code and there would be no back yard.

Ann Williams said the application said it would enhance the visual aspect and give consistency of the subdivision, but the applicant is saying that even the setback is approved at 40' someone could build further back on the property so there would not necessarily be consistency. Ann Williams asked why this was not done at the planning stage and why not look at NY Town Law 278 (Approval of Cluster Development) instead. Mark Lenzi said they probably did not realize the need when approvals were given by Planning Board. She has concerns with parking if the driveways are shorter and cannot accommodate campers, multiple cars forcing people into the

road to park. Would there be an issue with emergency vehicles and access if parking in the street is happening.

Stephen Shelley had concerns about whether it is legal for the Board to decide this. Greg Colavecchia is also concerned about legislating for the whole subdivision, instead of looking at individual needs; what the reasons are for the need not just a want. He has concerns the applicant states the main reason for this is to accommodate the septic system but that is not mentioned anywhere in the application. Daniel Schum, Esq. said that the applicant could come back for every lot but felt it would be most lots anyways so approving all of them makes sense.

Dan Melville agreed this is not unusual; however, it is usually done at Planning Board. He is not against it but is concerned with giving a blanket variance. Lots with a front septic system would not need a variance. Jack Barton feels this can be tabled so the applicant can provide a site plan showing septic system placement and allow the Board time to ask the Town Attorney whether the Board has the authority to decide on this and whether they can give one blanket variance or if a variance should be done for each lot depending on need.

**Public Comment:**

**Vince Ventimiglia** said houses in Carrie Marie were given approval for a 40' setback but he was unsure what Board approved it. Jack Barton said he is not aware of a Board ever approving a group variance after final approval was given by Planning Board.

Veronica Robillard understands the desire but is stuck on need versus want. Greg Colavecchia is not opposed but is unsure the role the Zoning Board plays in the decision; the balancing test must be applied while granting the minimum variance necessary; he has not heard a particular reason for this application except people want bigger back yards. He feels if they are not deciding on each case individually that the Board is being asked to legislate, which is why he asked how many lots have rear septic systems. That is being given as the main reason for the need however, the application does not mention it and the applicant was not sure how many lots had rear septic, what lots they were or what the impact is for each lot. He does not think a blanket variance is the way to go. Attorney Schum stated he does not think it is the Board's decision to determine need versus want. The issue is if the Board has the authority to give a uniform variance over a large area versus lot by lot. Mark Lenzi feels more investigation is needed; a determination of how these were handled in the past; and what options the Board has. The Board would like more information on the lots that require the 40' and the reasons. Attorney Schum said he and his client would agree to table this matter to the next meeting to provide the requested information.

**Charles Riley** lives adjacent to the project on the east side and said he supports the application. He will talk to the builder individually about possible placement of houses and the proximity to his property.

**Public Hearing Closed**

**A motion** was made by Greg Colavecchia to **table** the application of Kevin Brongo, owner, 184 Pine Hill Road to allow a 40 ft. front setback for the proposed single-family dwellings on Lots 2 through 21 (all new lots of the subdivision) to the June 2022 Zoning Board of Appeals meeting to afford the applicant time to provide a site plan showing septic system placement and the need for a 40' setback including any individual characteristics for each lot necessitating the setback, along with any other information to the Building Department by June 1, 2022. The Town will seek guidance from the Town Attorney as to whether the Board can give a blanket variance or if each lot requiring the variance should be done on a case-by-case basis.

**Seconded** by Stephen Shelley

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

#### **6. ERIC SIMMS, OWNER OF 1 WALNUT HILL DRIVE**

The applicant is requesting relief from Town Zoning, Article X, subsection 165-82 (C) (3) to allow the construction of a 10' x 12' shed located in the side yard. Town Code states accessory buildings shall be located in the rear yard. This property is a corner lot and is defined by Town Code as having two front yards, two side yards and no rear yard. This property is zoned Medium Density Residential.

Eric Simms said he lives on a corner lot; he would like to put up a shed for his growing family. It will be used for storage of toys and tools; will be surrounded by arborvitaes and not be obtrusive. Ann Williams asked about the patio block. The applicant stated the patio block was already there and the shed will sit on part of the block.

**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. There are 4 letters from neighbors in the file supporting this application.

**Public Comment:** None.

**Public Hearing Closed**

**A motion** was made by Dan Melville to **approve** the application of Eric Simms, owner of 1 Walnut Hill Drive to construct 10'x 12' shed located in the side yard **granting** relief from Town Zoning, Article X, subsection 165-82 (C) (3). Town Code states accessory buildings shall be located in the rear yard. This property is a corner lot and is defined by Town Code as having two front yards, two side yards and no rear yard. This property is zoned Medium Density Residential. Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant because it is a corner lot and by definition has no rear yard.
- There will be *no* undesirable change in neighborhood character or to nearby properties as supported by 4 letters from neighbors supporting the application.
- The request *is not* substantial because it is a corner lot there is no other option for placement.
- There will be *no* adverse physical or environmental effects.

- The alleged difficulty *is not* self-created because this is a corner lot. This is the minimum variance necessary. 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 (5-0)**

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

### **7. JOSEPH POLIMENI, OWNER OF 3 HUNTERS CROSSING TRAIL**

The applicant is requesting relief from Town Zoning Article X, subsection 165-82 (C) (3) and Article XVI, subsection 165-128 (A) (2) to allow the construction of a 10'x 16' shed located in the side yard and to allow a 6' tall privacy fence located in the front yard. The fence is proposed to extend towards Ogden Parma Town Line Road. Town Code states accessory buildings shall be located in the rear yard and open fences shall not be higher than 3 ft. above grade in the front yard. This property is a corner lot and is defined by Town Code as having two front yards, two side yards and no rear yard. This property is zoned Medium Density Residential.

Joseph Polimeni said he would like to put up a fence and shed on his property. This is a corner lot; the shed will be behind the house, at the rear of the lot, 12' away from the rear property line. It will be a style similar to the house. He would like to erect a 6' tall white vinyl privacy fence for the safety of his children and to block the view from Ogden Parma Town Line Road.

**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. There are no letters in the file. Mark Lenzi noted the Town Board approved 6' fences in Residential and High-Density Districts. The variance is for the front portion of the fence only; and this is only considered the front because it is a corner lot. Mr. Lenzi said he is going to be looking at defining a corner lot differently to help with these requests.

#### **Public Comment:**

Floyd Hopkins, 208 Ogden Parma Town Line Road, said their property backs up to the property line the fence will be on, and they are perfectly comfortable with the application. This will also provide them with privacy they lost when the houses on Hunters Crossing Trail were built.

#### **Public Hearing Closed**

**A motion** was made by Greg Colavecchia to **approve** the application of Joseph Polimeni, owner of 3 Hunters Crossing Trail to construct a 10'x 16' shed located in the side yard and to allow a 6' tall privacy fence located in the defined front yard **granting** relief from Town Zoning Article X, subsection 165-82 (C) (3) and Article XVI, subsection 165-128 (A) (2). Town Code states accessory buildings shall be located in the rear yard and open fences shall not be higher than 3 ft. above grade in the front yard. This property is a corner lot and is defined by Town Code as having two front yards, two side yards and no rear yard. This property is zoned Medium Density Residential. Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. This will provide privacy from Ogden Parma Town Line Road and will provide for the safety of his two young children.

- There will be *no* undesirable change in neighborhood character or to nearby properties given the neighboring homeowners find this would be desirable.
- The request *is not* substantial. This is only considered the front yard by definition and is a reasonable request. A reasonable person looking at this will agree this is the backyard.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty *is not* self-created as this is a corner lot. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

**Seconded** by Ann Williams

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

### **8. JOHN YUNGER III, OWNER OF 310 COLLAMER ROAD**

The applicant is requesting relief from Town Zoning Article XVI, subsection 165-129 (B) (1) & (2) to allow the placement of an above ground swimming pool located in the side yard and extending into the front yard by 6 ft. Town Code states swimming pools shall be located in the side or rear yard no closer to the street than the primary structure. This property is a corner lot. This property is zoned Medium Density Residential.

John Yunger, owner, said their property is a corner lot. He would like to put a pool up in the requested location because there are overhanging trees from his neighbor's yard; there are tree roots from a previously removed tree that runs through the yard and overhead wires they are trying to avoid. Lilac bushes and shrubs will keep the view of the pool by neighbors to a minimum.

**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. There were no letters in the file. Mark Lenzi feels this is a reasonable request.

Jack Barton said it would be important to keep the overhead wires away from the pool. Chairperson Robillard asked if they had considered a smaller pool; the pool is 27' round. The applicant said when they purchased the pool, it was the only size available.

**Public Comment:** None

**Public Hearing Closed**

**A motion** was made by Ann Williams to **approve** the application of John Yunger III, owner of 310 Collamer Road to allow the placement of an above ground swimming pool located in the side yard and extending into the front yard by 6 ft. **granting** relief from Town Zoning Article XVI, subsection 165-129 (B) (1) & (2). Town Code states swimming pools shall be located in the side or rear yard no closer to the street than the primary structure. This property is a corner lot and is zoned Medium Density Residential. Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant as this is a corner lot and by definition does not have a rear yard.
- There will be *no* undesirable change in neighborhood character or to nearby properties.

- The request *is not* substantial. The applicant has shown the need due to the property being a corner lot.
- 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 Dan Melville

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

## **SPECIAL PERMIT RENEWALS**

### **2. DEVIN GOODMAN and EMILY CICERO– 339 HUFFER ROAD**

Application of Devin Goodman and Emily Cicero, owners, for renewal of a Special Permit at 339 Huffer Road to operate an in-home business (bakery) in a part of their garage in accordance with Town Zoning Article IX, subsection 165-79.1. The property is currently zoned Agricultural/Conservation (AC).

### **6. DOUGLAS WARMBRODT – 462 HILL ROAD**

The application of Douglas Warmbrodt, owner, to renew a Special Permit at 462 Hill Road, for renewal of a Special Permit to operate an in-home business in the basement of his dwelling in accordance with Town Zoning Article IX, subsection 165-79.1. This property is currently zoned Agricultural/Conservation (AC) which allows this use with a Special Permit.

### **9. FRANK SANTONASTASO – 5070 RIDGE ROAD**

The application of Frank and Luigi Santonastaso, owners, for renewal of their Special Permit at 5070 Ridge Road West to allow the number of parking spaces for vehicles to be 315. This property is currently zoned Highway Commercial (HC) which allows the display and sale of motor vehicles with a Special Permit.

### **10. ANNA RICOTTA – 5064 RIDGE ROAD WEST**

The application of Anna Ricotta, owner, to renew a Special Permit at 5064 Ridge Road West, to display and sales of 71 vehicles as stated in the previous Permit. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

### **11. SALVATORE CAMMARATA – 5520 RIDGE ROAD WEST**

Application was received from Salvatore Cammarata, owner, for renewal of a Special Permit at 5520 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 and site plan approval.

### **12. RUSS ANGELO – 5200 RIDGE ROAD**

Application of Russ Angelo, owner, for renewal of a Special Permit at 5200 Ridge Road to operate an automobile sales business with the ability to display 80 automobiles for sale. This property is currently zoned Highway Commercial (HC) which allows the display and sale of motor vehicles with a Special Permit.

There was discussion about Special Permit Renewals. Mark Lenzi gave the Board a new procedure to review and comment on. Jack Barton asked if the Town Board approved the procedure. Mark Lenzi said he told the Town Board about the change but while the Town Board

will set the fee, he does not believe they have to approve the procedure or have control over a Department Head's procedure. The new policy would be for renewals only, all first-time approvals would still be required to come to the Zoning Board. The Board was comfortable with the procedure. It was felt that the ones tabled in March could be tabled for one more month and will be able to be addressed under the new procedure. The Board will review the procedure and get those to Mark. The Board felt the concept is fine, they just need to put the policy in final format.

**A motion** was made by Stephen Shelley to **table** the Special Permits listed above (tabled at the March 2022 Zoning Board of Appeals meeting) to the June 2022 Zoning Board of Appeals meeting to review the Special Permit Renewal Process.

**Seconded** by Dan Melville.

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

### **ADJOURNMENT**

There being no further business, a **Motion** was made by Dan Melville to adjourn the meeting at 9:50 p.m.

**Seconded** by Stephen Shelley

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

**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Ann Williams

Respectfully submitted,

Carrie Fracassi  
Recording Secretary