

**TOWN OF PARMA
ZONING BOARD OF APPEALS**

August 23, 2023

(The meeting was tabled from August 16, 2023, due to a water issue at Town Hall resulting in the building being closed)

Members Present: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alternate

Members Excused: Dan Melville

Others Present: Arthur Fritz, ZEO
Maureen Werner, Town Attorney

Public Present: Kris Shultz, Mark Thomas, Joe Trimer, Barbara Fay-Arganbright, Joe Aina, J. Kevin Arganbright, Ken Crist, Steven Perticone

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 five members present. A quorum of three is required to pass a motion.

MINUTES OF JULY 19, 2023

1. Review Minutes from the July 19, 2023, Zoning Board Meeting

The ZBOA minutes of July 19, 2023, were reviewed. A **Motion** was made by Stephen Shelley to **approve** the July 19, 2023, minutes as amended.

Seconded by Spencer Wren

Motion carried to approved (5-0)

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

TABLED BUSINESS

2. LORRIC DEVELOPMENT CORP/BUTTERNUT HILL SUBDIVISION, OWNER, 179 PINE HILL ROAD

The applicant is requesting relief from Town Zoning Article XVIII, subsection 165-33, (E) (1) (Schedule 1) to allow a proposed Subdivision (lot 1) to have a front set back from the proposed entrance road of 40.3 feet and a front lot width from Pine Hill Road of 91.58 feet and a rear width of 96.89 feet. Town Code requires a front setback from public access roads and streets be 60 feet, and the lot width of 100 feet. The property is zoned Medium Density (MD).

Kris Shultz said this project is a 35-lot subdivision off Pine Hill Road. Soil testing has been completed, has public water and will be larger scale houses. The Planning Board and Town Engineer have completed all of their reviews and concerns have been addressed. Approval needed is for this one lot from the Zoning Board as it will allow a house to be built on the property and will be the road leading into the subdivision. Kris Shultz explained the lots adjacent to this property were built prior to the current code which left this lot with the dimensions it has.

This is a very large but narrow parcel. Kris Shultz showed the Board through previous minutes that this has been approved many times in other cases.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter; no further review required. There were no comments from the Building Department. MRB provided a letter stating they have reviewed the plans and the developer has addressed previous comments and there are no further engineering comments.

Public Comment: NONE

Public Hearing: Closed

A motion was made by Ann Williams to **approve** the application of Lorric Development Corp/Butternut Hill Subdivision, owner of 179 Pine Hill Road, for relief from Town Zoning Article XVIII, subsection 165-33, (E) (1) (Schedule 1) to allow a proposed Subdivision (lot 1) to have a front set back from the proposed entrance road of 40.3 feet and a front lot width from Pine Hill Road of 91.58 feet and a rear width of 96.89 feet. Town Code requires a front setback from public access roads and streets be 60 feet, and the lot width of 100 feet. The property is zoned Medium Density (MD). Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant due to the road and the need to place the house at the entrance of the subdivision.
- There will be *no* undesirable change in the neighborhood character or to nearby properties, in fact, it will increase the area's appeal.
- The request *is somewhat* substantial; however, the applicant has shown it to be necessary for the road and to build the house.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is somewhat self-created; however, corner lots make placement difficult. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Spencer Wren

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

NEW BUSINESS

3. JOSHUA ALBERTI, OWNER, 1204 HILTON PARMA CORNERS ROAD

The applicant is requesting relief from Town Zoning Article V, subsection 165-31 (E)(1), Schedule I for the placement of a Pole Barn located in the rear yard with a 13 ft. side setback. Town Code requires a 25 ft. side setback. This property is zoned Agricultural Conservation (AC).

Ken Crist, on behalf of the applicant, explained this application is for a 60x20 ft. pole barn on the south side of the primary structure to be used as a garage. The original detached garage was in a state of disrepair and has been removed. The new structure will sit close to where the previous structure was, the structure cannot be moved any further because of the septic system necessitating the variance.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter. And no further review required. There were no comments from the Building Department. Letters were received from the neighbors at 1205, 1200 and 1207 Hilton Parma Corners Road; all were in support of the application and the improvements to the property.

Public Comment: NONE

Public Hearing: Closed

A motion was made by Jack Barton to **approve** the application of Joshua Alberti, owner of 1204 Hilton Parma Corners Road, for relief from Town Zoning Article V, subsection 165-31 (E)(1), Schedule 1 for the placement of a Pole Barn located in the rear yard with a 13 ft. side setback. The Town Code requires a 25 ft. side setback. This property is zoned Agricultural Conservation (AC). Considering the balancing test, the Board finds the following: **This structure is a garage; not an accessory structure or pole barn.**

- The benefit *cannot* be achieved by other means feasible to the applicant. The applicant is unable to place the structure further back on the property due to the septic system and would result in a an additional cost to the applicant.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. The structure will sit quite far from the road and behind other structures.
- The request *is* substantial but there are no other options for the applicant.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is not self-created, this is caused by the layout of the property. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Stephen Shelley

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

4. JOSEPH AINA JR., OWNER, 10 CONNIES LANE

The applicant is requesting relief from Town Zoning Article V, subsection 165-33 (C)(2), and Article X, subsection 165-82 (C) (3) for the proposed erecting of a 780 sq. foot accessory structure on the south side of the house in the side yard, the total sq. footage of all accessory structures on the property will total 940 sq. feet. Town code limits accessory structures to 600 sq. feet and accessory structures to be in the rear yard. This property is zoned Medium Density (MD).

Joe Aina said he is proposing to build a 20x60 ft. accessory structure for storage; there will be no electricity and it will sit on a concrete pad. The structure will be located on the south side of the property. Belongings to be stored include 6 motocross bikes, 4-wheelers, a boat, a mowing tractor and accessories and a plow. The smaller structure on the property stores the patio furniture. He explained he currently stores some of these belongings at other properties.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter; no further review required. A letter was provided from several of the neighbors on Connies Lane supporting the request.

Public Comment:

Mike Martone, said he resides at 6 Connies Lane and he supports the application.

Public Hearing: Closed

Jack Barton noted this structure will encroach into two easements, as do a pool and shed on the property. Maureen Werner, Esq. told the applicant that if RGE needed to get to that part of the property they would remove any structure in the easement. The applicant stated they understand.

A motion was made by Stephen Shelley to **approve** the application of Joseph Aina Jr., owner of 10 Connies Lane, for relief from Town Zoning Article V, subsection 165-33 (C)(2), and Article X, subsection 165-82 (C) (3) for the proposed erecting of a 780 sq. foot accessory structure on the east side of the house in the side yard, the total sq. footage of all accessory structures on the property will total 940 sq. feet. Town code limits accessory structures to 600 sq. feet and accessory structures to be in the rear yard. This property is zoned Medium Density (MD).

Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant given what the applicant has to store and the layout of the property.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. This will improve the character by having the equipment stored inside.
- The request *is somewhat* substantial but is mitigated by the need.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is not self-created; the layout of the lot was not created by him. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Jack Barton

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

5. JOHN NICHOLS, OWNER, 66 NORTH AVENUE

The applicant is requesting relief from Town Zoning Article V, subsection 165-32 (E)(1), Schedule I, for the placement of an addition located on the north side of the home with a 34-foot side setback, and a 20 ft. and 26 ft. front setback. Town Code requires a 40 ft. side setback and a 75 ft. front setback. This property is zoned Rural Residential (RR).

Joe Trimer, on behalf of the applicant stated the applicant is looking to add a 20x26 ft. addition to the property on the north side of the home. The addition will consist of a master bedroom and bath area; the structure currently has only two bedrooms. They are unable to put this in another location due to the septic; they are the last house on the road before the parkway.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter; no further review required. There were no letters in the file.

Public Comment:

Barbara Fay-Arganbright, 65 North Avenue, said they live across the street, and they fully support this application; feels this will help the neighborhood and increase the value of the properties.

J. Kevin Arganbright, 65 North Avenue, said the house as it stands is too small for a family and limits who can live there, this addition would mean the owners can stay in the property with their kids and he supports the application.

Public Hearing: Closed

A motion was made by Jack Barton to **approve** the application of John Nichols, owner of 66 North Avenue, for relief from Town Zoning Article V, subsection 165-32 (E)(1), Schedule I, for the placement of a 20x26 ft. addition located on the north side of the home with a 34-foot side setback, and a 20 ft. and 26 ft. front setback. Town Code requires a 40 ft. side setback and a 75 ft. front setback. This property is zoned Rural Residential (RR). Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. There are no other options due to the septic system and garage on the property.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. The neighbors were in attendance to support the application.
- The request *is not* substantial; There are shrubs on the property and the property borders the parkway.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is not self-created. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Stephen Shelley

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

5. STEVE & ALYSSA TROMBLEY, OWNER, 1298 WEST AVENUE

The applicant is requesting relief from Town Zoning Article V, subsection 165-32 (B)(Permitted Principal Uses), to allow a farm-to-table food truck business and a 30 x 40 ft. parking area. A dining area 30 ft. x 40 ft. adjacent to the food truck. The applicant is also requesting a 4x8 ft. permanent sign with an 18" x 6 ft. open sign attached below the permanent sign totaling 41.6 sq. feet of signage with a 4 ft. setback from the right of way. Town code Article XIV, 165-111 (D) requires a 15 ft. set back from all property lines. Article XIV 165-112 (F) allows a sign not to exceed 2 sq. feet in area. This property is zoned Rural Residential (RR).

Steve Trombley, the owner, said he did not get the notifications mailed out timely, so he understands the application needs to be tabled to another meeting. Mr. Trombley wanted to ask some questions of the Board about his options. He stated he spoke to several attorneys who have

said there is a zero percent chance this application will be approved, and the zoning changed. Chairperson Robillard said the Board is here to grant relief not change the zoning and the Board will be looking at the food truck and sign requests only, not any special event permits. She further explained that the criteria for a Use Variance is very specific.

Because notifications were not mailed on time, the applicant will have to reimburse the Town to re-advertise the meeting and send new notifications per the instructions the Building Department will mail to the applicant. The applicant stated he understood that.

Jack Barton read the portion of the code that refers to Use Variances and explained that all four criteria have to be met for approval to be granted by the Board. Maureen Werner, Esq., explained the applicant can present the application and any evidence he has if he wants to, and it will be up to the Board to decide. He does not need to bring an attorney; however, it is recommended because the criteria is very hard to meet for a Use Variance and an attorney is more familiar with what is required. The criteria is set by New York State, not the Town.

A motion was made by Jack Barton to **table without prejudice** the application of Steve and Alyssa Tombley, owner of 1298 West Avenue, for relief from Town Zoning Article V, subsection 165-32 (B)(Permitted Principal Uses), to allow a farm-to-table food truck business and a 30 x 40 ft. parking area. A dining area 30 ft. x 40 ft. adjacent to the food truck. The applicant is also requesting a 4x8 ft. permanent sign with an 18” x 6 ft. open sign attached below the permanent sign totaling 41.6 sq. feet of signage with a 4 ft. setback from the right of way. Town code Article XIV, 165-111 (D) requires a 15 ft. set back from all property lines. Article XIV 165-112 (F) allows a sign not to exceed 2 sq. feet in area to the September 20, 2023, Zoning Board of Appeals meeting due to notifications not being mailed timely and the applicant must present information for all 4 criteria required for a Use Variance to the Building Department. If the applicant is unable to provide this information timely, a letter can be submitted requesting to be tabled to a later date. This property is zoned Rural Residential (RR).

Seconded by Stephen Shelley

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

OTHER BUSINESS

The Town Board approved a new deadline schedule for Zoning Board applications. This will help the Building Department get Board Member packets ready and mailed timely, also giving applicants more time to get notifications mailed. Art Fritz said the new schedule will be emailed to the Board.

ADJOURNMENT

There being no further business, a **Motion** was made by Ann Williams to adjourn the meeting at 8:20 p.m.

Seconded by Stephen Shelley

Motion carried to approved (5-0)

Ayes: Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams, Jack Barton, Alt.

Excused: Dan Melville

Town of Parma Zoning Board of Appeal
AUGUST 23, 2023

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Respectfully submitted,

Carrie Fracassi
Recording Secretary