

TOWN OF PARMA
ZONING BOARD OF APPEALS
March 15, 2007

Members Present: Patrick Buskey
Veronica Robillard
Dean Snyder
Tim Thomas

Members Excused: Mark Kalen, Stephen Shelley

Others Present: Jack Barton

Public Present: See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board, with one regular Board member and the alternate Board member absent. She explained that a quorum of three is required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

PUBLIC HEARINGS

1. FRANK ZANNIE – 427 WILDER ROAD

Application was received from Frank Zannie, owner, for an area variance at 427 Wilder Road. The applicant is proposing a 24 feet by 24 feet addition to an existing 1575 square feet accessory storage building and is requesting relief from Town Zoning Article 5 subsection 165-34-C-2, which limits accessory buildings to 400 square feet. The proposed addition will increase the accessory storage building size to 2150 square feet. This property is currently zoned High Density residential (HD).

Frank noted errors in the square footage amounts stated in the public notice. He stated that the existing structure is 1560 square feet and a total of 2136 with the new proposed addition. He stated that there are no other accessory buildings on the property. He reported that he built the original structure in 1989 on this 5 acre lot. Since then, he has added more lawn maintenance equipment and put in a swimming pool in 2005. He noted that the narrow part of the accessory structure faces the road with the proposed addition to be placed in the back, making it less visible. He reported that he is an electrician by trade but doesn't do work in this building. He noted that the building is divided in three sections, with the front section used to park his business truck. The middle section is set up as a work shop for his personal use for woodworking. The back section is used to house his lawn mower and other property maintenance items. He noted items which are stored outside because he lacks the room in this existing structure, including a larger lawn mower and equipment and pool supplies. He stated that with the exception of a trailer which will not fit into this building, all the items which are stored outside at the present time will fit into the expanded structure. Frank noted the existing fence which he plans to remove when the addition is built. Jack Barton stated that prior to 1998 this property was not zoned high density. Frank noted that he lives next to a group home with large buildings and a barn. He did not feel that this addition will be unique to the neighborhood and will not create an undesirable change to the nearby properties. He reiterated that the addition will be added to the back of the building and will not be visible from the road. He stated that the new addition will be constructed with materials that will blend with the existing structure, with the same wall height and material.

Kathy Zannie noted that this building will not block anyone's view and this will clean up the back area by allowing inside storage.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Discussion was held that this property did not appear to be a high density zone and the fact that this applicant needs equipment to maintain this 5 acre lot. Chairperson Robillard asked if any other vehicles come in and out of this property in conjunction with his electrical business. Frank replied that there are no other vehicles, only an occasional UPS truck delivery and he has no other employees. Chairperson Robillard asked for a description of the specific items that would be stored in the new addition which makes it needed. Frank responded: a 72" lawn mower, which is in the building now but leaves little room for other items; tractor accessory equipment, including a snow plow, snow blower, post hole digger and loader bucket; pool equipment (which is piled on top of equipment in the barn at present); wheelbarrow, a trailer he uses for his business, and a trailer he uses to haul his tractor; and a trench digger that he uses 90% for personal use and 10% for his business (this is currently stored inside).

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from Frank Zannie, owner, for an area variance at 427 Wilder Road for a 24 feet by 24 feet addition to an existing 1560 square feet accessory storage building and this grants relief from Town Zoning Article 5 subsection 165-34-C-2, which limits accessory buildings to 400 square feet. The proposed addition will increase the accessory storage building size to 2136 square feet. This property is currently zoned High Density residential (HD). In making this determination to approve, I do not believe the benefit can be achieved by other means feasible to the applicant. The applicant has an existing 1560 square feet building, yet is unable to store tractor equipment which includes tractor mounted snow blower, snowplow, post hole digger, tractor front end loader, backhoe, and wheelbarrow. This equipment is currently stored outdoors and exposed to the weather. With this addition, the applicant will be able to protect the equipment and remove the opportunity for neighbors to see it. It will not create an undesirable change in neighborhood character or to nearby properties. This is a somewhat unique high density property on 5 acres and the neighboring property has two buildings on it and the relationship of the building to the road minimizes its impact. The placement of this addition also minimizes the impact and it will look similar to the existing building. The request is certainly substantial. There will be no adverse physical or environmental effect. The alleged difficulty is self-created, but when using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Tim Thomas. **Motion Carried (3-1)** (Ayes: Patrick Buskey, Dean Snyder, Tim Thomas; Nays: Veronica Robillard; Absent: Stephen Shelley)

2. PETER CHAPMAN – 1281 WEST AVENUE

Application was received from Peter Chapman, owner, for an area variance at 1281 West Avenue. The applicant has installed an outdoor wood boiler for a new home that is currently under construction and the boiler has been placed in the front yard. The applicant is requesting relief from Town Zoning Article 10 subsection 165-82.C.3, which states, in part, that all detached accessory structures shall be located in the rear yard. This property is currently zoned Rural Residential (RR)

Jeff Chapman stated he is the son of Peter Chapman, who is the owner of the property and house in front of this property. He explained that an outdoor wood boiler was part of the original architect's proposal for this house that he is having built on his 3.576 acres, which is located behind his father's property. When the house construction was inspected, he was told the wood boiler wasn't in the right location. They decided to have the house turned so it faces West Avenue so the rear of the house is to the south. The boiler is set back 400 feet from West Avenue. He noted that the back yard is almost all leach field. The only other location for this boiler would be

east of the leach field south of the structure, which would put it in a natural drainage area of the pond and creek. It would require a significant amount of fill to place it there.

Tim Thomas asked if the boiler was on the site plan. Jack Barton stated it was not.

Jeff explained that this is his only source of heating his house, with no back up system. He stated that in order to keep this wood boiler heating the house, he will need to hand feed wood into it several times a day. He provided a written estimate of the cost to move this wood boiler, which was estimated at \$1500 for material and labor plus the cost of significant fill required in the only area that is suitable on the east side. He noted that its location is 40 feet from the house currently. He described the outside dimensions of the wood boiler as being 8 feet long, 6 feet high, and 4 feet wide. It looks like a little tool shed.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Peter Chapman, owner, for an area variance at 1281 West Avenue. The applicant has installed an outdoor wood boiler for a new home that is currently under construction and the boiler has been placed in the front yard. This grants relief from Town Zoning Article 10 subsection 165-82.C.3, which states, in part, that all detached accessory structures shall be located in the rear yard. This property is currently zoned Rural Residential (RR). In making this determination to approve, the benefit can not be achieved by other means feasible to the applicant. This property is somewhat unique in that it sits 400 feet from West Avenue and is located behind the father's property. To move the location would put it over the leach system or flood plane of a low lying area. The cost to relocate this boiler would be a financial hardship. There will be no undesirable change in the neighborhood character or to nearby properties. The request is substantial, due to the fact that the code specifically states accessory structures are not to be located in the front yard. There will be no adverse physical or environmental effects. The alleged difficulty is self-created, but using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Patrick Buskey. **Motion Carried (4-0)** (Patrick Buskey, Veronica Robillard, Dean Snyder, Tim Thomas; Absent: Stephen Shelley)

3. GLOBAL SIGNAL – 254 NORTH AVENUE

Application was received from Global Signal, owners, for modification of an existing Special Permit at 154 North Avenue. The applicant is proposing to place an additional antenna array along with associated equipment cabinets at the tower base in an additional 10 feet by 15 feet fenced compound. The proposed array will be located 22 feet below the existing array. This property is currently zoned agricultural Conservation (AC).

George Zelina stated he represented Global Signal and Cricket Communications. He explained that they have an FCC license to install wireless service. He explained their proposal to co-locate with Sprint on the existing tower at 254 North Avenue, with an extension of the existing fenced in compound to facilitate opening the equipment cabinet doors. He noted that this 120 feet high tower is located on a 5 acre farm. Their proposed antenna array will be located 22 feet below the existing array, putting it at 98 feet. This location was chosen to utilize an existing port hole. He explained that the need to enlarge the compound is because Sprint originally made the pad as small as possible to meet their needs. He noted that this tower is so far off the road, you can't see the tower.

Public Comment:

Dave Palmer – 138 Bailey Road: He questioned if this tower is built for an additional carrier. George explained that this monopole was built to accommodate three carriers.

John Murray – 286 North Avenue: Questioned if this will cause any interference with any other equipment. George assured him that there will be no interference or harmful emissions. John then stated that he had no objection to this application.

The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is as an unlisted SEQR and a negative declaration was determined when the existing tower was approved.

Tim Thomas questioned if the bonding needs to be modified to include this additional antenna. Jack Barton replied that this would not be necessary.

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from Global Signal, owners, for modification of an existing Special Permit at 254 North Avenue to place an additional antenna array along with an associated equipment cabinet at the tower base in an additional 10 feet by 15 feet fenced compound. This property is currently zoned Agricultural Conservation (AC). This approval under the conditions of the original special permit, as per Zoning Ordinance 165-74. Seconded by Tim Thomas. **Motion Carried (4-0)** (Ayes: Patrick Buskey, Veronica Robillard, Dean Snyder, Tim Thomas; Absent: Stephen Shelley)

4. DAVID REID – 126 BAILEY ROAD

Application was received from David Reid, owner, for area variances at 126 Bailey Road. Applicant is proposing to subdivide property and create a frontage lot and 3 flag lots and is proposing that lot 1 have a width of 236.36 feet where 260 is required. Lot 2 is proposed to have a depth of 236.36 feet where 300 feet is required. Lot 3 is proposed to have a depth of 219.59 feet where 300 feet is required. This property is currently zoned Rural Residential. (RR).

Kris Schultz, survey engineer, provided maps, noting incorrect depths. He recalled that he presented an application for this property before and was turned down. He stated he has worked on a new proposal, which he is presenting tonight. He referred to the map, explaining that lots 1 and 2 will be built on, and lot 3 will be left vacant. A single variance for lot 1 is required for the lot width. He recalled that he previously asked for 216 feet, and this application asks for an increase of 20 feet. He noted that the lot line was moved over so no variance is needed for the garage. On lot 2, 260 feet of depth is required, with an actual depth of 256.34 feet, which is 3.6 feet short. Lot 3 has a depth of 239.59. This is the shorter leg of the lots. He noted that lots 2 and 3 meet the required width and all meet the required acreage.

Jack Barton noted the proposed houses are oriented to face the proposed road. The Zoning Board was asked to look at this private road as a public road.

David noted that his intent was to create lots for his family to build in back and by leaving lot 3 vacant, this provides an opportunity for access to develop more lots in back in the future.

Discussion was held on the possible future development of this property and the resultant impact if this private drive becomes a public road. This will bring lots 2 and 3 out of conformance even more.

Kris noted that all three variances are not significant and asked that the Board look at just what is being proposed tonight. He provided a drawing of lots on Bailey Road, noting only two houses meet zoning. This proposal is not unique to this neighborhood.

Dean Snyder noted that this proposal puts a road right between two houses. Kris stated that they are proposing a 14 feet wide driveway to service two houses and will have the appearance of a driveway. Kris stated that future development is not planned at this time. If this is considered in the future, they understand the concerns of the Board. Kris noted that the house to the south is 29 feet from the side of the house to the proposed line, with 20 feet additional space before the driveway. This makes it almost 50 feet from the house to the edge of the proposed driveway. This provides more than enough room to screen the driveway from the property to the south.

Dean Snyder recalled the Board's concerns at the prior meeting about the road coming so close to the house on the south. Kris stated that the road could be moved father north and this would not affect lot 2 dimensions.

Discussion was held that the houses on lot 2 and lot 3 need to be oriented to Bailey Road because the driveway is a private drive. Kris reiterated that the access road is a private driveway. Based on this, he listed the shortage for frontage for each lot: lot 1, short 23.46 feet; lot 2, short 4 feet, and lot 3, short 20 feet.

Dean Snyder opened discussion on the close proximity of the proposed private driveway to the house to the south and his opinion that the location is unacceptable. Kris stated that it would be a hardship for the owner of the barn on lot 1 to remove the barn to provide room to move the private road farther away from the house on the south.

Public Comment:

Richard Vance – 253 Peck Road: Questioned why two substandard lots are being proposed when there is more than enough land available to meet zoning. He questioned the dimensions being described, are they the east-west or north-south dimensions. He suggested that lot 2 could be shifted to the east. It was explained that this would block any access to the land farther back.

Retha Vance – 253 Peck Road: Stated all lots are substandard. She suggested they eliminate lot 1, which avoid issues down the road.

Joseph Reinschmidt – 336 Ogden Parma TL Road: He pointed out that even if the road were placed in the middle of lot 1, the residence on lot 1 doesn't make it feasible to put the road there. Lot 1 would have to be dedicated to the access road with no barn or house.

The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Tim Thomas to deny the application of David Reid, owner, for area variances at 126 Bailey Road to subdivide the property and create a frontage lot

and 3 flag lots and is proposing that lot 1 have a width of 236.36 feet where 260 is required. Lot 2 is proposed to have a depth of 236.36 feet where 300 feet is required. Lot 3 is proposed to have a depth of 219.59 feet where 300 feet is required. This property is currently zoned Rural Residential. (RR). In making this determination to deny, I do believe that the benefit can be achieved by other means feasible to the applicant. I specifically refer to the access. It is currently proposed and does not have sufficient setbacks that make it a comfortable access path to the proposed development. It will create an undesirable change in neighborhood character and to nearby properties. Specifically, to the Carlson property to the south of the access path. It is absolutely substantial. There will be no adverse physical or environmental effect. The alleged difficulty is absolutely self-created, and using the balancing test, the benefit to the applicant does not outweigh any detriment to the health, safety and welfare of the community. The majority of the motion to deny is relative to the access path, not so much as to the lot depth as presented. Seconded by Dean Snyder. **Motion carried to deny (3-1)** (Ayes to Deny: Dean Snyder, Tim Thomas, Veronica Robillard; Nays: Patrick Buskey; Absent: Stephen Shelley).

Chairperson Robillard polled the Board for their reasons to deny:

Tim Thomas: Stated his motion speaks for his reasons.

Dean Snyder: Stated he agreed with Tim's motion. In addition, I believe because of the narrow front of lot 1, the development of back lots is inconsistent with the look of the house and barn on lot 1.

Veronica Robillard: Alternative options are possible considering the size of the overall parcel and development of land could be pursued more in line with current zoning codes.

5. ESTATE OF DEBBIE J. TRANELLO – 5575 RIDGE ROAD WEST

Application was received from the estate of Debbie J Tranello, Jeff Houston, administrator, for a use variance at 5575 Ridge Road West. The property has a multi-family dwelling and the applicant is requesting relief from Town Zoning Article 6, subsection 165-39.B which allows only commercial and agricultural operations as permitted principal uses. This property is currently zoned General Commercial (GC).

Terry Brown-Steiner, attorney for the estate of Debbie Tranello, and Jeff Houston, administrator, reported that the required notifications are not in order. They stated they can not provide proof of mailing through the post office but got personal signatures from all on the mailing list with the exception of one address where the residents are in Florida.

Jack Barton explained that notarized statements would be required from each and every required notification following this meeting in order for the notifications to be legal.

Chairperson Robillard polled the Board if we should proceed without the required notifications or table this application. It was the consensus of the Board to table this application.

A **Motion** was made by Tim Thomas to table the application of the estate of Debbie J. Tranello, Jeff Houston, administrator for a use variance at 5575 Ridge Road West until the April 26, 2007 ZBOA meeting to provide the applicant additional time to complete the required notifications. Seconded by Patrick Buskey. **Motion carried (4-0)** (Ayes: Patrick Buskey, Veronica Robillard, Dean Snyder, Tim Thomas; Absent: Stephen Shelley)

6. TODD D'ANGELO – 1961 NORTH UNION STREET

Application was received from Todd D'Angelo, owner, for a Special Permit at 1961 North Union Street. Applicant is proposing to convert the existing garage into an accessory apartment for in-law use. Applicant will construct a detached garage to meet zoning regulations. This property is currently zoned Medium Density Residential (MD).

Todd explained that he is looking to convert the existing garage into an in-law apartment for his aging in-laws. He noted their house is 2311 square feet, not including the existing garage. In addition, he plans to build a detached garage approximately 100 feet in the back. He will use an existing access driveway on the north side of his property for this new garage. The new garage will be 30 feet x 40 feet, 1200 square feet and will meet all zoning codes. He provided a sketch of the proposed garage. The existing garage is 644 square feet. He provided a rough sketch of the plan to convert this garage. He noted that only the interior space will be changed. From the outside, it will look the same. He plans to keep the garage doors in place. The only difference will be an added window. He noted it will not have separate utilities and will include a living room, one bedroom, a kitchen and a bathroom. There will be two separate exterior access doors to this in-law area. He stated they could share the new garage if they choose.

Chairperson Robillard explained that once the in-law apartment is no longer needed, the in-law space would need to be converted back and would require removal of the kitchen. Todd stated he understood that he would need to come back to the Board for a variance for the detached garage to obtain approval for this accessory structure, once the in-law apartment was converted back to a garage.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Todd D'Angelo, owner, for a Special Permit at 1961 North Union Street to convert the existing garage into an accessory apartment for in-law use per zoning code 165.76. This is approved for a period of two years, to be renewed March of 2009, as per code. Applicant will construct a detached garage to meet zoning regulations. This property is currently zoned Medium Density Residential (MD). Seconded by Dean Snyder. **Motion carried (4-0)** (Ayes: Patrick Buskey, Veronica Robillard, Dean Snyder, Tim Thomas; Absent: Steven Shelley)

MINUTES OF FEBRUARY 15, 2007

The following changes were recommended: page 2, Para 4, change to "The Board recalled that safety of technology was addressed in the Telecommunications Act and not governed by this Board."; Page 2,3, and 3 Motions, change to "This approval must comply with the conditions of the original special permit..."

A **Motion** was made by Dean Snyder to approve the February 15, 2007 minutes with the recommended changes. Seconded by Tim Thomas. **Motion carried (4-0)** (Ayes: Patrick Buskey, Veronica Robillard, Dean Snyder, Tim Thomas; Absent: Stephen Shelley)

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Dean Snyder, to adjourn the meeting at 10:35 pm. **Motion Unanimously Carried (4-0)** (Ayes: Patrick Buskey, Veronica Robillard, Dean Snyder, Tim Thomas; Absent: Stephen Shelley)

Respectfully submitted,
Diane Grundon, Recording Secretary