

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
JULY 17, 2008**

**Members Present:** Patrick Buskey  
Mark Kalen (alternate)  
Stephen Shelley  
Dean Snyder

**Members Excused:** Carm Carmestro (Board Liaison), Veronica Robillard, Tim Thomas

**Others Present:** Jack Barton

**Public Present:** See attached sheet

The meeting was called to Order by Acting Chairperson, Dean Snyder, at 7:00 p.m. He explained the function of the ZBOA and the decision-making process. He noted that this is a five-member board, with two Board members excused from this meeting. Mark Kalen, the alternate Board member was in attendance. He stated that a quorum of three is required to pass a motion.

**TABLED PUBLIC HEARINGS**

**1. JULIE MCWHERTER – 220 HINKLEYVILLE ROAD**

Application of Julie McWherter, owner, for an area variance at 220 Hinkleyville Road. The applicant is proposing to replace an existing wooden fence along the southerly property line with a new 4 feet high open style white vinyl fence which extends into the front yard and is requesting relief from Town Zoning, Article 16, subsection 165-128.A.2 which states in part that open style fences in the front yard shall not be higher than 3 feet above the adjacent ground level. This property is currently zoned Medium Density Residential (MD).

Chairperson Snyder recalled that this application was tabled at the June ZBOA meeting to allow the applicant an opportunity to obtain a letter from her neighbor stating their approval regarding placing a 4 feet high fence at a zero setback.

Julie McWherter referred to the letter provided to the ZBOA on June 29<sup>th</sup> from her neighbor, Lillian Ingham who resides at 226 Hinkleyville Road. In this letter, Lillian stated her support for a variance for a new white four foot vinyl open picket fence to replace the current old four foot picket fence in the same location with a zero setback.

The public hearing was closed.

**Board Discussion:** Following discussion, a **Motion** was made by Stephen Shelley to approve the application of Julie McWherter, owner, for an area variance at 220 Hinkleyville Road to replace an existing wooden fence along the southerly property line with a new 4 feet high open style white vinyl fence which extends into the front yard, but not to extend into the neighbor's front yard, and this grants relief from Town Zoning, Article 16, subsection 165-128.A.2 which states in part that open style fences in the front yard shall not be higher than 3 feet above the adjacent ground level. This property is currently zoned Medium Density Residential (MD). In making the determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. Because of the offset with the neighboring lot, if his neighbor had proposed to do this, a variance would not be required. We received a letter from the neighbor that states they do not object to this variance. I do not believe that the replacement of this fence will create an undesirable change in the neighborhood character or to nearby properties, in fact, they are replacing an existing fence with one very similar. The request is not substantial. It could be put up by the neighbor. There will be no adverse physical or environmental effect. 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 unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

## PUBLIC HEARINGS

### 2. WILLIAM DALY – 256 HINKLEYVILLE ROAD

Application of William Daly, owner, for an area variance at 256 Hinkleyville Road. The applicant is proposing to construct a 1,500 square foot accessory storage structure in the rear yard and is requesting relief from Town Zoning Article 5, subsection 165-33-C.2 which limits accessory buildings to 600 square feet. This property is currently zoned Medium Density Residential (MD).

William explained his proposal to construct a 1,500 square foot pole barn on his 4-acre lot. He provided a drawing of the proposed barn, noting views of the front, rear and sides. He also provided photos depicting 5 different views from the site of the proposed barn. He stated the barn will be behind the house. He listed items to be stored: a large boat and trailer, a snowmobile and trailer, 2 4-wheelers, and room for a work bench. He stated he currently keeps some of these items in his garage and has kept other items at his father-in-law's property. He explained that his father-in-law is moving and he will no longer be able to store items there. Without this accessory structure, he would have to keep the boat in his driveway under a tarp. He needs indoor storage to keep these items out of the weather and out of sight.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Snyder 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 Patrick Buskey to approve the application of William Daly, owner, for an area variance at 256 Hinkleyville Road to construct a 1,500 square foot accessory storage structure in the rear yard and this grants relief from Town Zoning Article 5, subsection 165-33-C.2 which limits accessory buildings to 600 square feet. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, I do not believe the benefit can be achieved by other means feasible to the applicant, being that the structure is going to be 150 feet back from the back of the house and 360 feet back from the road and not visible to the neighbors or from the street. I do not believe there will be any undesirable change in neighborhood character or to nearby properties. The request is substantial. The size of the structure is 2 ½ times allowed by code, however, the items to be stored include a large boat and trailer, a snowmobile and trailer, 2 4-wheelers, and a work bench. The request will not have adverse physical or environmental effects. Although 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 Stephen Shelley. **Motion unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

### 3. WILLIAM CHATTERSON – 459 PARMA CENTER ROAD

Application of William Chatterson, owner, for area variances at 459 Parma Center Road. Applicant is proposing to construct an addition to an existing barn. The addition will have a rear setback of 20 feet and a side setback from the easterly property line of 16.3 feet. The applicant is requesting relief from Town Zoning schedule 1 which requires a rear and side setback of 25 feet for accessory structures. This property is currently zoned Agricultural Conservation (AC).

Bill stated he is looking to extend the barn to make a larger workshop area. He explained he is currently cramped for space. He referred to the sketch map noting this will make this barn even with the other barns. He stated it will go no further than the other barns and the roofline will be no higher than the existing barn. He stated the barns are very old and were there when they purchased the property many years ago. He noted the addition will not be visible from the road.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Snyder 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 Mark Kalen to approve the application of William Chatterson, owner, for area variances at 459 Parma Center Road to construct an addition to an existing barn. The addition will have a rear setback of 20 feet and a side setback from the easterly property line of 16.3 feet. This grants relief from Town Zoning schedule 1 which requires a rear and side setback of 25 feet for accessory structures. This property is currently zoned Agricultural Conservation (AC). In making this determination to approve, I believe that the applicant has shown the need for additional shop space. I believe that the proposed addition is going to square up this building and enhance the building itself. I believe that the benefit can not be achieved by other feasible means. There will be no undesirable change in neighborhood character or to nearby properties. The request is not really substantial. It is a small addition and this will square up the building. There will be no adverse physical or environment effect. The alleged difficulty is somewhat self-created but because the applicant did not own the property when the barn was built. 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. **Motion unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

### 4. ADS FAMILY, LLC – 531 PECK ROAD

Application of ADS Family, LLC, owner, for an area variance at 531 Peck Road. The applicants are proposing to construct a 1,812 square feet storage structure which includes a 180 square feet covered porch area and is requesting relief from Town Zoning Article 5, subsection 165-32-C.2 which limits accessory buildings to 1,500 square feet. This property is currently zoned Rural Residential (RR).

Jack Barton reported that the applicant, Mr. Spazziano, was present but left the meeting, requesting that his application be tabled until the August meeting due to lack of the required notifications.

A **Motion** was made by Patrick Buskey to table the application of ADS Family, LLC, 531 Peck Road, without prejudice, until the August ZBOA meeting to allow the applicant additional time to provide the required notifications. Seconded by Stephen Shelley. **Motion unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

## 5. THOMAS WHITLEY – 1229 PECK ROAD

Application of Thomas Whitley, owner, for an area variance at 1229 Peck Road. The applicant is proposing to construct a detached garage in the front yard and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached garages shall be located to the rear of the front building line of the principal building. This property is currently zoned Agricultural Conservation (AC).

Thomas stated that he currently does not have a garage. He explained that he only has a 10 x 10 feet shed and has no place to store his car or lawn mower. He referred to the sketch of his property, noting that their property has numerous trees which prevent placement to the west side of the house and there is not enough space on the east side for a garage. He noted that the septic system is located in the center of the back yard and Salmon Creek runs through his lot in the back. He described the steep slope from the house, especially on the east side. He explained there are also underground wires and cables to avoid. He stated that the proposed location will utilize the existing driveway and is the only possible location for this garage. He provided pictures of his property noting the trees that prevent placement of the garage closer than 110 feet to the house. It was noted that the garage doors will not face the road as it is a side entrance garage.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Snyder 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 Stephen Shelley to approve the application of Thomas Whitley, owner, for an area variance at 1229 Peck Road to construct a detached garage in the front yard and this grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached garages shall be located to the rear of the front building line of the principal building. This property is currently zoned Agricultural Conservation (AC). In making this determination to approve, the benefit can not be achieved by other means feasible to the applicant. In discussion, we agree it is not economically feasible or effective to place this garage in another location due to numerous problems, including the floodplain around Salmon Creek. There will be no undesirable change to the neighborhood character or to nearby properties, in fact, the proposed garage will not be visible to neighbors or from the street. The request is substantial but it is not possible to locate the garage closer to the house due to the many trees that exist. There will be no adverse physical or environmental effect. The alleged difficulty is self-created. He does have the option of not putting up a garage, but this will bring his property to code. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Mark Kalen. **Motion unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

## 6. MARK LESLIE – 36 MARJORIE LANE

Application of Mark Leslie, owner, for area variances at 36 Marjorie Lane. The applicant is proposing to construct a 10 feet by 12 feet storage shed in the side yard and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. The applicant is also proposing to install a 6 feet high privacy fence in the front and side yards with a setback of 2 feet from the west, south and east property lines and is requesting relief from Town Zoning Article 16, subsection 165-128.B.2 which states in part that privacy fences up to a height of 6 feet may be permitted for the express purpose of enclosing or screening a swimming pool or patio area. Such fences are subject to the setback requirements and the complete enclosure of a yard in this manner shall not be permitted.

Relief is also requested from schedule 1 which requires a front setback of 40 feet, side setback of 10 feet and rear setback of 10 feet. This parcel is a corner lot which is defined in zoning as having 2 front yards, 2 side yards, and no rear yard. This property is currently zoned High Density Residential (HD).

Mark explained that they currently only have a two car garage and need storage room for a lawnmower. He stated they have lived at 36 Marjorie Lane for 2 ½ years and have two young girls. Joann Leslie explained their need for the fence to provide safety and security for their daughters. Mark noted two addresses that have a 6' high privacy fence that does not surround a pool. Jack Barton noted a variance was given for one and he would check on the other. Mark stated they currently have a small pool but plan to put in a larger pool next year. He stated they currently do not have a patio.

**Public Comment:**

**Teresa Rodziewicz – 34 Marjorie Lane:** In a letter, she stated she does not oppose the fence and is considering the same type of fence for her yard due to noise, dirt and dust from traffic on Wilder Road. She believes that the fence will add character.

The public hearing was closed.

**Board Discussion:** Chairperson Snyder 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 on the lack of justification to approve the fence. It was suggested that the applicant consider withdrawing that portion of his application and resubmit the fence request when they have definite plans to put in the swimming pool next year. Following this discussion, Mark stated his request to withdraw the portion of his application for the 6 feet high privacy fence.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application of Mark Leslie, owner, for an area variance at 36 Marjorie Lane to construct a 10 feet by 12 feet storage shed in the side yard. The specific location will be location "A" as indicated by the applicant on the instrument location map. This grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This parcel is a corner lot which is defined in zoning as having 2 front yards, 2 side yards, and no rear yard. This property is currently zoned High Density Residential (HD). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. He needs to have more storage. There will be no undesirable change in the neighborhood character and to nearby properties. The request is not substantial due to the unique nature of this corner lot it does not have a rear yard. There will be no adverse physical or environmental effect. 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 Patrick Buskey. **Motion unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

**MINUTES OF JUNE 19, 2008**

The June 19, 2008 minutes were reviewed. On page 3, Para 1, line 10, change “high water line” to “flood zone.” On page 4, Para 3, line 1, change to “where the building location is proposed.” A **Motion** was made by Stephen Shelley to approve the June 19, 2008 minutes with the recommended changes. Seconded by Patrick Buskey. **Motion Carried (3-0)** (Ayes: Patrick Buskey, Dean Snyder, Stephen Shelley; Abstain: Mark Kalen; Absent: Veronica Robillard, Tim Thomas)

**ADJOURNMENT**

There being no further business, a **Motion** was made by Patrick Buskey and seconded by Mark Kalen to Adjourn the meeting at 8:25 p.m. **Motion unanimously carried (4-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder; Absent: Veronica Robillard, Tim Thomas)

Respectfully submitted,  
Diane Grundon, Recording Secretary