

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
DECEMBER 16, 2010**

**Members Present:** Tina Brown  
Veronica Robillard  
Stephen Shelley  
Dean Snyder  
Tim Thomas

**Others Present:** Lara Badain, Esq. (town attorney), Jack Barton,  
Jim Roose (board liaison), Jim Zollweg (alternate)

**Public Present:** See attached list

Chairperson Robillard called the meeting to Order at 7:05 p.m. She explained the function of the ZBOA and the decision-making process. She noted that this is a five-member board. She explained that a quorum of three is required to pass a motion.

**TABLED PUBLIC HEARING**

**1. REHEARING OF 1220 HPCR #1LLC AND 1220 HPCR #2LLC – 1220 HILTON PARMA CORNERS ROAD**

A rehearing for the application of 1220 HPCR #1LLC and 1220 HPCR #2LLC, owners, for three area variances at 1220 Hilton Parma Corners Road. Applicants are proposing to construct an addition on the south side of the existing building with a front setback of 57 feet from the Parma Center Road right of way, locate eight parking spaces along Parma Center Road with a 12.9 feet setback from the right of way, locate ten parking spaces along Hilton Parma Corners Road with a 5 feet setback from the right of way and provide a total of 26 parking spaces for the property. Applicants are requesting relief from: (1) Town Zoning Schedule One which requires buildings to have a front setback of 75 feet; (2) Article 16, subsection 165-125-A.9 which requires parking spaces be set back no less than 25 feet from the road right of way; and (3) Schedule Two which based on building size requires 45 parking spaces. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard recalled that this application was tabled in order to have the applicant answer questions posed by the ZBOA members at the November meeting. She explained that a rehearing of this application requires a unanimous vote to pass any Motion.

Ms. Zoghlin, attorney, recalled the Board's request for information regarding the building exterior and layout, which was provided to them on December 8<sup>th</sup>. She noted the exterior was a light tan color with darker roof shingles and lots of windows. She also provided a sketch of the building with the parking closer to the building, as suggested. She noted there were 3 bays facing Route 259 and 3 bays facing Parma Center Road. The wall facing Parma Center has a large window and a glass door. She pointed out the planned landscaping. Ms. Zoghlin stated that this will look more like a building of a commercial nature rather than industrial. She referred to the interior layout, noting 7 lifts were planned, 2 existing plus 5 in the new addition. She noted the western most overhead door facing south will not have a lift. This bay will be used for deliveries and toolboxes. Ms. Zoghlin then provided an overlay page to indicate where the parking was planned. She noted that although 25 car spaces were shown, the Planning Board will decide on the configuration. Mr. Colakoglu stated that the construction is a pole barn but covered with steel, with the bottom portion covered with stone. He noted the roof is peaked.

Tim Thomas questioned if the dimensions were different between the original layout and this one. Ms. Zoghlin stated there was no difference. Mr. Colakoglu noted the two longer bays to accommodate larger trucks. He explained that the 57 feet setback was required because of the requirement for the handicapped bathroom and to be able to move around to do their work. Ms. Zoghlin referred to the information presented at the July meeting when she compared the prior K&K setback which is closer to the road than what is being requested.

Dean Snyder reiterated some of his concerns. He felt we should not be limiting the number of parking spaces, the more available the better off we are. He stated that rather than limit the number of parking spaces, we should allow the maximum. We could allow more parking without changing the setback. He stated his concern for the building size. There is no requirement for the building size. He stated the three things that determine a building size: (1) lot coverage, which is no issue; (2) setback. If the building is so large it encroaches on the right of way, which this building does, is an issue. He questioned what other alternatives were available to the applicant. Encroaching on the right of way makes for an obtrusive building. He also stated his opinion that he does not like a pole barn construction in this commercial area. He referred to the old K&K building and the Wilson Farms in Hilton which have a brick exterior and is much nicer looking. He noted that the K&K has houses on both sides with similar setbacks; (3) the size of a building is dictated by the available parking. The code calls out the number of parking spots based on the size of the building to assure adequate parking is available. The applicant has a different use than most buildings. They are talking about a business of 15 years and when this property is sold, another business will use this building for something else and may require more parking. He questioned, should we allow the applicant to build a larger building which limits the number of parking spots. Does the maximum number of parking spaces support the building. He suggested an alternative. If the number of bays on the west side were reduced to two bays, this would reduce the setback. This also would allow two large bays for the larger trucks and does not impact the handicapped bathroom. They would still need a variance but it would minimize the variance needed.

Tim Thomas requested that we ask for another layout that would conform to the setback. Dean Snyder stated that the suggestion of reducing the building by one bay would accomplish this. Dean Snyder suggested that the building be narrowed by 11 feet by reducing it by one bay. Tim Thomas asked if the applicant changed the building construction from the pole barn design would Dean Snyder consider approving the variance. Dean Snyder stated that this would look significantly better with a stone, brick or decorative façade, but this is only one component. Tim Thomas stated that he felt the applicant has come a long way to have the building look better but the metal look with a building this size is difficult to imagine. The view from Parma Center would be of a very large building. Dean Snyder stated that the rendering does a great job of showing the roof line that wraps around and is now proposed rather than what the builder provided. Dean noted that 45 parking spaces are required for the building proposed. We gave them 23 parking spaces which is closer to the 50% mark. Dean questioned if the building proposed is adequate for this gateway to the community. Dean stated that when we have the opportunity to look at a new building, we must consider the use, size and location of the property. Many buildings are grandfathered because of old zoning. Dean stated his recommendation to modify the approval for a setback from 57 feet to 68 feet, reducing the building by 11 feet by eliminating one bay facing Parma Center Road. He pointed out moving the south most wall to the north by 11 feet would result in 1 long bay facing Route 259, 1 regular size bay facing Route 259, and 2 bays facing Parma Center Road.

Mr. Colakoglu responded with his concerns. He stated that taking off 11 feet would make it difficult to maneuver a long truck into a 25 feet long bay on the west side. He noted that with the parking moved closer to the building, this does not allow room to maneuver the long truck into the bay. He stated if he is going to spend money on this building, he wants a building to meet his needs. He expressed his opinion that he thought the proposed building has character.

Dean Snyder asked how he has been dealing with long trucks up to now. Mr. Colakoglu stated that he has worked on them outside. Mr. Colakoglu stated that the bays are 28 feet, door to wall now. Dean stated that if he removed 11 feet this would give him 3 feet more than he has now, with the newly suggested layout.

Dean Snyder suggested we look at how to minimize the building to allow more parking. Mr. Colakoglu stated that the doors for the large bays are 12 feet wide. He stated that his truck is 30 feet long. Dean pointed out that if he changed his recommendation to reduce the building by only 8 feet, this would allow more room for the large trucks. He noted there was 35 feet between the south side of the building and parking spaces with a raised curb area. This would give them extra room to maneuver large trucks into the bay.

Dean stated that a 520 square feet reduction in the building size would result by reducing it by 8 feet and the parking would be one car per 100 square feet. Tim Thomas suggested that we give the applicant time to re-look at his building with these suggestions. Chairperson Robillard stated that the Zoning Board should go ahead with what we are comfortable with. Ms. Zoghlin stated that they are ready to go forward with a 65 feet setback proposal. She confirmed that they would be taking 8 feet off the south wall of the building.

Mr. Colakoglu explained the two lifts for the small cars. He now uses one lift and 4 barrels to raise up large trucks. He stated that he needs room for a 4 post lift. Dean Snyder asked how much room does he need for a large 4 post lift. Mr. Colakoglu stated that he needs 21 feet plus 3 or 4 feet of extension for the lifts, which do fold back after the truck is lifted, for 25 feet total and he needs the 12 feet wide doors. Dean Snyder pointed out that he can have two 4 post lifts and two 2-post lifts with the 8 feet reduction. Dean stated we are trying to balance limitations against the concerns expressed by the community who have spoken at these hearings. Mr. Colakoglu expressed concern that although the long trucks will fit, this does not give him enough room to work around the vehicles. He reiterated that 21 feet long lift with a 3' ramp requires 24 feet. Ms. Zoghlin stated that the workers need room to walk around the lifts to do their work. Dean Snyder stated that this leaves a extra 10 feet of work room.

Chairperson Robillard asked the applicant if they want an opportunity to look at the suggestions or if they wanted the Board to act on it tonight. Mr. Colakoglu stated he wanted the Board to act on this tonight. Chairperson Robillard then called for a Motion.

A **Motion** was made by Dean Snyder to modify the Motion made at the July 15, 2010 ZBOA meeting. The Motion that is being modified originally approved a 57 feet setback in an area which currently requires a 75 feet setback for the building. In making this determination, several factors have been considered:

- The benefit can be achieved by other means feasible to the applicant. In reviewing the decision, although not ideal for the applicant, the means can be satisfied by shortening the approved proposed building. The south wall can be moved 8 feet north. This would require a variance setback of 65 feet from the required 75 feet. In reviewing the applicant's interior layout, the applicant would lose one lift but still be able to accommodate four lifts, two being a 2-post lift facing the west side of the building. In addition, two 4-post lifts will be able to be located facing the south side of the building. The 4-post lifts can be located in the 34 feet long bays. The applicant has described a need for a 21 feet 4 post lift with a 3 feet ramp leading up to it which subsequently swings out of the way. This combination leaves 10 feet to walk around the vehicle, which also includes the width of the building walls.
- There will be no undesirable change in the neighborhood character or to nearby properties. This property is located on the corner of two relatively busy streets that have been described as the gateway to the town of Hilton. In deciding to maximize the benefit to the applicant but minimizing the impact to the surrounding properties

and people using the roadway, reducing the proposed setback by 8 feet minimizes this impact. The larger proposed building size requires a significant number of parking places (45), which is a much larger number than are available on the property.

- The request is substantial. On the south side, there are no houses located with a similar setback on the same road, as is the case for the building formerly known as K&K across the street.
- The request should have no adverse physical or environmental effects.
- The alleged difficulty is self-created. The applicant requires a larger facility than they presently have, yet the property only has a finite number of parking spaces available. The applicant has had much more business than they anticipated since moving from their previous location. This increase in business has been operating in a building whose depth is 28 feet. This new approval is for a depth of 34 feet which is significantly more than the applicant has had available, yet the applicant has been able to satisfy a much larger number of customers and therefore is much busier than originally anticipated.

In making this modification, approving a setback of 65 feet, by using the balancing test, the needs of the applicant outweigh any detriment to the health, safety and welfare of the community.

This motion to modify significantly deviates from the Motion to approve a 57 feet setback at the July 15, 2010 ZBOA meeting. The reasons for deviation is that the Board has had an opportunity to review additional information, has had an opportunity to approve additional parking spaces, has had an opportunity to request information from the applicant, and has reviewed the interior design, as provided by the applicant, which has allowed us to make this modification to satisfy the needs of all involved. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Chairperson Robillard stated that the Zoning Board appreciates the applicant's efforts and responses to the Zoning Board members' requests. Dean Snyder noted that the applicants' submission of the rendering was very helpful and answered a significant deficit in the architectural drawing showing a wrapping around of the roofline.

A recess was called at 8:40 p.m. The meeting reconvened at 8:50 p.m.

## **2. THOMAS AND CRISTINA LOVERDE – 229 DEAN ROAD**

Application of Thomas and Cristina LoVerde, owners, for an area variance at 229 Dean Road. Applicants are proposing to construct an accessory storage building with a portion of the building having a wall height of 18 feet and are requesting relief from Town Zoning Article 10, subsection 165-82.C.2 which states that no detached accessory building in a residential district shall exceed 12 feet in height. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled that this application was tabled at the November meeting due to the lack of required notifications.

Tom explained that he wants to construct a storage building in the back of his yard, 240 feet back from Northrup Creek which runs through his back yard. This building will be screened by trees. He described the building, noting that if he were to increase the size of the building it would require him to bring in stone and put in a concrete floor. He felt it is safer to have a loft storage, which is less costly and more esthetically pleasing. He provided a drawing which would be similar to what he is proposing. He pointed out the roof line which is not like a barn style roof. He listed items he needed to store as follows: yard furniture and building materials in the upper loft, trailers, lawn mowers on the bottom. He stated this building will allow him more room in their garage to park cars. Tom stated that this 28 x 32' building with the loft will have a total of 1200 square feet. Jack Barton stated that 1500 square feet are allowed. Tom stated that if he went with less than an 18 foot wall height, it would change the room he has in the loft. 8 feet of head room in the loft is required for safety reasons. He estimated that the structure will be 450 or 400 feet from the road and 250 feet from the back lot line. He stated he would not use this for living space. There will be no water or heat in this building.

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

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that the request was returned by Monroe County as a matter of local determination. Jack reported that 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 Thomas and Cristina LoVerde, owners, for an area variance at 229 Dean Road to construct an accessory storage building with a portion of the building having a wall height of 18 feet and this grants relief from Town Zoning Article 10, subsection 165-82.C.2 which states that no detached accessory building in a residential district shall exceed 12 feet in height. This property is currently zoned Rural Residential (RR). In making the determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. The loft area with a height of 8 feet will facilitate movement on the second floor. A shorter height would create a safety concern with a lower ceiling. There will be no undesirable change in neighborhood character or to nearby properties. In comparing other structure requests for wall height, it is my belief that the unique location, in excess of 500 feet off the main road, justifies approval. The request is substantial. There will be no adverse physical or environmental effect. The applicant has gone to some length to try to blend this structure in with the natural surroundings and minimize the impact to the trees. 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 Dean Snyder. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

### NEW PUBLIC HEARINGS

#### **3. DOUGLAS HILL – 5588 RIDGE ROAD WEST**

Application of Douglas Hill, owner, for an expansion of a non-conforming structure at 5588 Ridge Road West. Applicant is proposing an 18 feet by 96.6 feet lean-to addition on the rear (north) side of an existing pole barn and is requesting relief from Town Zoning Article 12, subsection 165-89.B which states that a non-conforming building shall not be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of non-conformance. This property is currently zoned General Commercial (GC).

Doug provided pictures which showed the equipment that is now stored outside on this property which has been owned by his family since 1938. He also provided an aerial view that shows neighboring buildings including a neighbor who has a trailer for storage. He noted there is only one house nearby. He explained the existing barn was built in 1958 and was used as a cow barn.

He stated he grows corn and the cows are gone. He is now growing Christmas trees on 5 acres of this land. He stated he would not see a profit from these trees for 10 to 12 years when they have matured. He noted the open land behind him to Peck Road. He noted that a 12 x 65 feet mobile home was on the same footprint as this proposed structure. Doug stated that this property is used for agricultural not commercial use.

**Public Comment:** Jack Barton read a letter from the Planning Board, dated 12/3/10: The Planning Board at their 12/2/10 meeting reviewed this application. The Board believes that this structure is the last remnant of this farm. The structure is not obvious to anyone driving by. The proposed addition is to the rear of the existing barn and does not appear to be a negative impact to the neighborhood.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that the request was returned by Monroe County as a matter of local determination. Jack reported that 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 Douglas Hill, owner, for an expansion of a non-conforming structure at 5588 Ridge Road West to construct an 18 feet by 96.6 feet lean-to addition on the rear (north) side of an existing pole barn and this grants relief from Town Zoning Article 12, subsection 165-89.B which states that a non-conforming building shall not be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of non-conformance. This property is currently zoned General Commercial (GC). In making the determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. The applicant has a significant amount of equipment stored outside that cannot be placed in the current barn which was built in 1958 on this family owned property since the 1930's. There will be no undesirable change in the neighborhood character or to nearby properties. The proposed building on the north side will be virtually unnoticeable from Ridge Road since the barn sits 400 feet off of Ridge Road and therefore will have little or no impact on neighboring properties. The request is substantial. The code is explicit regarding expansion of non-conforming structures and although this is a GC property, this is an agricultural operation. A tree farm has just been planted by the applicant which will give him a profit in 10-15 years. There will be no adverse physical or environmental effects. This gives the applicant an opportunity to provide a covered area for his equipment. 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 Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

#### **4. DOUG MILLER FAMILY SPORTS PARK – 4618 RIDGE ROAD WEST**

Application of Doug Miller Family Sports Park, owners, for an area variance at 4618 Ridge Road West. Applicants are proposing to attach a 1,610 square feet sign to the air supported structure (Dome) which would bring the total area of signage for this business to 1,655 square feet and is requesting relief from Town Zoning Article 14, subsection 165-113.B.2. which states in part that each business shall be permitted one business sign placed flat against the building. Such sign shall not exceed 20% of the wall surface to which it is attached or applied. In no case, however, shall such sign exceed a total area of 150 square feet. This property is currently zoned Highway Commercial (HC).

Joe O'Donnell stated he was representing Doug Miller in presenting this application, as Doug could not be here tonight. He referred to the picture of the proposed sign which was provided in the package to the Board. He explained this sign is unique because the dome being the size it is, a 150 square foot sign would be totally out of scale on this building. He stated that this sign would result in 10.3% square foot coverage of the surface area of the dome. He provided examples of other signs in the Town of Parma that covered around 13% which is more than the 10% that is being requested. The Board pointed out that all the examples given were not for the Town of Parma. He explained that the sign would provide advertisement for Kodak and the Doug Miller Sports Park. He stated he felt this sign, which would be 23' by 70', would be appropriate for this building and would follow the curvature of the dome. He stated that the existing sign is 45 square feet.

Chairperson Robillard questioned Mr. O'Donnell if they considered putting this sign up in the interior of the building. Mr. O'Donnell stated this would not provide a benefit.

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

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

Discussion was held on the fact that this is a billboard type of sign and exceeds the code substantially.

Following discussion, a **Motion** was made by Dean Snyder to deny the application of Doug Miller Family Sports Park, owners, for an area variance at 4618 Ridge Road West to attach a 1,610 square foot sign to the air supported structure (Dome) which would bring the total area of signage for this business to 1,655 square feet and this denies relief from Town Zoning Article 14, subsection 165-113.B.2. which states in part that each business shall be permitted one business sign placed flat against the building. Such sign shall not exceed 20% of the wall surface to which it is attached or applied. In no case, however, shall such sign exceed a total area of 150 square feet. This property is currently zoned Highway Commercial (HC). In making the determination to deny, I believe the benefit can be achieved by other means feasible to the applicant. The applicant currently uses approximately 1/3 of the available square footage to advertise the business. I believe this will result in an undesirable change in neighborhood character or to nearby properties. This is an unprecedented size for an advertising sign in the area and is 10 times that allowed by our current code. The request is substantial. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created in that the applicant would like to have a very large advertising sign that includes their name and the sponsor's name. Using the balancing test, the benefit to the applicant is outweighed by the detriment to the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion unanimously carried to deny (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

The applicant asked what would be an acceptable size for this sign. Jack Barton stated that anything that meets code.

Chairperson Robillard polled the Board members for their reasons to deny, as follows:

Dean Snyder: Stated his Motion is the basis for his denial.

Stephen Shelley: The requested sign is 10 times larger than the maximum allowed by code, which is extremely substantial.

Tim Thomas: The applicant's proposal is excessive, 10 times that allowed by code, and there are no other signs in the Town of Parma that even rival a sign this size.

Tina Brown: Using the balancing test, the benefit can be achieved by other means. This would create an undesirable change to the character of the neighborhood.

Veronica Robillard: The applicant can achieve the benefit by using a sign within the limits. The size is excessive and would change the character of the neighborhood.

## **5. LAURA DENNISON – 4945 RIDGE ROAD WEST**

Application of Laura Dennison, lessee, for an area variance at 4945 Ridge Road West. Applicant is proposing to use an existing free standing sign for business. The existing sign is considered abandoned by zoning because the previous business activity has been discontinued for a period of 90 days. The sign has a setback of 6 feet from the road right-of-way and relief is requested from Town Zoning Article 14, subsection 165-111.D which states in part that all free-standing signs shall be set back a minimum of 15 feet from all lot lines. This property is currently zoned General Commercial (GC).

Tim Zurecki stated he was speaking for this application. He explained that this request is based on the fact there is an existing sign which used to be Roses Bridal Shop for 20+ years. The existing sign is in violation of current zoning. To bring it into compliance would bring the sign into the building because the building was built in the right-of-way. Tim described the sign as a 10.69 square feet, illuminated, freestanding pole sign. It will be refaced to their business.

**Board Discussion:** Jack Barton noted that the proof of notifications was missing. The applicant stated she did make the notifications but did not bring proof. Chairperson Robillard explained that the ZBOA cannot act on this application until proof is provided.

Following discussion, a **Motion** was made by Tim Thomas to table the application of Laura Dennison to the January 20, 2011 ZBOA meeting without prejudice in order to provide the applicant an opportunity to provide the required notifications. Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

## **6. GREG STAHL PROPERTIES, LLC – 4621 RIDGE ROAD WEST**

Application of Greg Stahl Properties, LLC, owners, for area variances at 4621 Ridge Road West. Applicants are proposing to construct a commercial building and place 3 signs on the building and erect 1 free-standing sign. Total area of signage for the business will be 177.2 square feet. Applicants are requesting relief from Town Zoning Article 14, subsection 165-113.B.2 which states in part that each business shall be permitted 1 business sign on the building and the total area of signage shall not exceed 150 square feet. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard noted that the applicant was not present to speak for this application.

A **Motion** was made by Stephen Shelley to table the application of Greg Stahl, 4621 Ridge Road West, without prejudice, to the January, 2011 ZBOA meeting, due to the absence of the applicant at this meeting. Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

## **7. KIMBERLY AND JONATHAN SHULTS – 1119 PECK ROAD**

Application of Kimberly and Jonathan Shults, owners, for area variances at 1119 Peck Road. Applicants are proposing to use an existing barn on the property that has a front setback of 130 feet from the right-of-way and a side setback of 38 feet from the easterly property line to stable the owner's horses and use an area to the front and side of the stable as paddock area. Applicants are requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states that any boundary line and any exercise pens attached to a stable shall be located in the rear yard of such building and screened from adjacent properties. This property is currently zoned Agricultural/Conservation (AC).

Kimberly Shults explained she wants to use the existing barn to stable her family's horses. She referred to the letter provided with her application, which included photos. She stated they bought the property because it has 8 acres and the description did state it was okay for horses. They were unaware that they could not use the barn for horses, as it was there when they purchased the property in June of 2010. She stated this is a small horse barn and they have no intention for commercial use or horse boarding. She stated that one paddock will be placed in the rear and a small paddock in the front. She included pictures of the fences which were there previously. She explained they obtained a permit for the front fence where board fencing and electric fencing are both used. They have not obtained a permit yet for the rear fence which will be just electric fencing. She noted there are 9 or 10 horse barns on Peck Road, so this is not unique to the area. She stated that the manure will be disposed to the back of their property. She noted that 25% of their property was available for pasture. She stated there is no other location to build a new barn on the property that would comply with zoning. She stated that they just want to enjoy 1 or 2 horses for personal use. She noted that her neighbor at 1093 Peck Road expressed to her that they do not want a fence on their property. She stated she assured them that this would not happen. She noted that she has received several positive comments from neighbors about their proposal. She explained that they moved to Parma because of the open land and being able to have horses.

**Public Comment:** Chairperson Robillard read two letters that were received from the same person, as follows:

**Jodi Salatti – 1111 Peck Road:** In a letter dated December 15, 2010, Jodi stated she was 38 feet from the property line and they are in opposition to this application. She expressed concerns that the barn is too close to her house and she is allergic to dust and hay. She was also concerned about the manure smell and would not have purchased their home if the barn was actively used for horses. She felt they should build a barn farther away from their house. Chairperson Robillard recalled that there is no other location for another barn on this property.

Kim responded that the Salatti's home is in front of the barn. She noted that there is water and electric in the barn and it was obviously used for horses in the past. She noted they do have plans to build a horse shelter in the pasture for the horses in the rear of the property and not use the barn except for storage. She explained that any manure storage would be more than 200 feet from the Salatti's home. She stated she would consider commercial disposal of manure if that is deemed necessary.

Kim stated she would like to withdraw her request for use of the front as a paddock area. She would just use the side and the back for paddock.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that the request was returned by Monroe County as a matter of local determination. Jack reported that 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 Kimberly and Jonathan Shults, owners, for area variances at 1119 Peck Road to use an existing barn on the property that has a front setback of 130 feet from the right-of-way and a side setback of 38 feet from the easterly property line to stable the owner's horses and use an area to the side and back of the stable as paddock area. This grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states that any boundary line and any exercise pens attached to a stable shall be located in the rear yard of such building and screened from adjacent properties. This property is currently zoned Agricultural/Conservation (AC). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. There is no other location on this parcel that a new structure could be put up and be in compliance with zoning code. The applicants want to use the existing barn which has been there for at least 80 years and has water and electric. There will be no undesirable change in neighborhood character or to nearby properties. Peck Road is a very horse friendly area with many established horse stables. The request is substantial but I believe the age of the property predates the current building code and therefore mitigates a substantial aspect. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created, although offset by the age of the property that predates our code. 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 (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

#### MINUTES OF NOVEMBER 18, 2010

The ZBOA minutes of November 18, 2010 were reviewed. The following changes were recommended: page 2 Para 2, line 2, change "would be" to would require", line 6, change (1) to the maximum lot coverage of the building allowed on the property." page 5, Para 3, line 9, change to "short overhang." Page 7, Para 2, line 3, change to "...appears to fit on the property"; Para 3, line 17, change to "Dean Snyder stated that he would consider it." ; page 8, last Para, line 4, change to "brush hog."; page 9, change Bill Palermo to "Bill Palma"; the motion did not have the correct name or application in the beginning portion. Change it to the Musso application; page 11, Para 2, under E. change to "the buss will drop off in the back portion..." under F. change to "lighting will meet requirements." Para 3, line 6, change to "What happens to the building if the church becomes financially unable to support it?"; Para 4, line 5, change "new" to "not"; page 12, line 2, change to "...knowing the church property was there. Pastor Merrill noted that the church would own the property and there is no mortgage. A **Motion** was made by Tim Thomas approve the November 18, 2010 ZBOA minutes with the recommended changes. Seconded by Dean Snyder. **Motion carried (3-0)** (Ayes: Veronica Robillard, Dean Snyder, Tim Thomas; Abstain: Tina Brown, Stephen Shelley).

#### OTHER

**2011 ZBOA meeting dates:** The 2011 meetings dates submitted at the November meeting were approved by the Board members.

#### ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Stephen Shelley adjourn the meeting at 10:55 p.m. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Respectfully submitted,

Diane Cook, Recording Secretary