

TOWN OF PARMA
ZONING BOARD OF APPEALS
NOVEMBER 18, 2020

Due to COVID-19 this meeting will also be held via ZOOM.

Members Present: Dan Melville, Veronica Robillard (via Zoom), Stephen Shelley, Tim Thomas, Corinne Zajac (via Zoom)

Others Present: Art Fritz, Lina Judd, Attorney Maureen Warner

Public Present: Jeff Freier, Eric Basset, Kris Schultz, John Sciarabba, Scott Spicer

The meeting was called to Order by Acting Chairperson Thomas at 7:00 p.m.

Acting Chairperson Thomas explained the function and decision-making process of the Zoning Board of Appeals and noted this is a five member board; all members are present, 2 via Zoom, and a quorum of three is required to pass a motion. Acting Chairperson Thomas noted that the Board will be taking the applications out of order to accommodate the Town Attorney in attendance who will be giving guidance on certain applications.

1. ROBERT CHRIST – 1060 HILTON PARMA CORNERS ROAD

The amended application of Robert Christ, owner, for 2 area variances at 1060 Hilton Parma Corners Road. The applicant is proposing to construct a 3,600 square foot accessory structure with a wall height of 14 feet and is requesting relief from Town Zoning Article V, section 165-31.C.2 which limits the size to 2,000 square feet and Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas noted this application came in a couple months ago and has changed since the original notice in the paper which is why it was advertised again. A workshop was held at the property on October 27, 2020 to view the property and discuss the application. The attorney was present at the workshop and has since provided the Board with a letter relative to the workshop and the application. Originally the application had a sign variance, which was dealt with separately and has been approved. The modification request was eliminated because the proposed structure will be located over 400' from the road.

The applicant was not in attendance tonight either in person or over Zoom and there was no communication from him to the Building Department. The Board felt it was inappropriate to act without the applicant in attendance. Attorney Warner agreed.

A motion was made by Stephen Shelley to **table** the application of Robert Christ, owner, for 2 area variances at 1060 Hilton Parma Corners Road to the December 2020 Zoning Board of Appeals meeting without prejudice. The applicant must be at the meeting in order for

this to be considered. If there is no communication with the Building Department stating he is unable to attend that meeting, the applicant will have to reapply.

Seconded by Dan Melville. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

2. ERIC BASSET – 466 PECK ROAD

The application of Eric Basset, owner, for four area variances at 446 Peck Road. The owner is proposing to construct a 100' x 120' pole barn with a wall height of 14 feet located in the front yard and is requesting relief from 1) Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. ft. 2) Town Zoning Article X subsection 165-82.C.2 which limits the wall height to 12 ft., 3) Town Zoning Article X, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard and 4) Town Zoning which states by definition that accessory structures shall be subordinate in area to the principal building which, in this case, is 3,527 sq. ft. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas noted this was tabled because the Board did not receive information in their packets for the October meeting and they were unable to inspect it properly.

Mr. Basset explained he would like to erect a structure for storage of large equipment. The property is 40 acres; 38 acres are being farmed. The structure would be located 1000 feet off the road near his residence. The reason for the location is because it is the highest part of the property; putting in a different location would require additional site work and expense to keep it dry. The house sits in the location it does so far off the road for the same reason. The leach bed is at the south side of the house and the natural barrier would hide the structure.

The structure would be used to store earth moving equipment, classic cars and boats but eventually would be used for farming. Storing the large equipment inside protects it from the elements which cause deterioration to the equipment. He noted he is not running a business out of his property. This would be used for long term storage only. The equipment is moved a couple times a year and is mostly on job sites when it is being used.

Acting Chairperson Thomas asked if he had considered a smaller building. The applicant stated he did and brought a layout of a smaller building showing dimensions of 80'x 130', which is a 15% reduction in size. He could not go any smaller. He feels the structure fits into the neighborhood because other structures around his property are just as large, some with multiple buildings. This will not be seen from the road because of the property size and the proposed location. Veronica Robillard stated that the layout provided shows extra space in the building and felt the applicant should submit a scaled layout with width and size of the equipment. Acting Chairperson Thomas stated he would like something from an engineer stating why it cannot be located behind the house. Chairperson Robillard asked if everything being stored would be personal property, if they are registered and where they are stored now. The boats and classic cars are stored at various offsite locations. The personal property is his and they are all registered. The equipment is not required to be

registered because it is off road equipment. Everything to be stored is already owned by the applicant.

Acting Chairperson Thomas stated he agrees it is better to have stuff stored inside versus outside but this is very large. The applicant stated that he is willing to work with the Town but that he needs a large building to store the large equipment. Acting Chairperson Thomas asked why the applicant needs 14' walls versus the 12' allowed. The applicant stated he needs the height to accommodate the equipment. Mr. Basset stated he talked to a couple of his neighbors who stated they are in favor of this application and had no concerns.

Public Comment: None

Public Hearing: Closed

The revised drawing provided tonight by the applicant will need to be distributed to the Board in their packet for next month. The board would like a revised drawing with accurate dimensions. Acting Chairperson Thomas would like something from a professional stating why this is the best locations. The applicant stated that it would be expensive for him to put the building in another location on the property. Acting Chairperson Thomas noted that the applicant could show the Board that putting this structure in an alternate location would be costly.

Board Discussion: Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination; this is a Type II action. There are no letters in the file.

A motion was made by Veronica Robillard to **table** the application of Eric Basset, owner, for four area variances at 446 Peck Road without prejudice to the December 2020 Zoning Board of Appeals meeting to afford the applicant time to provide an alternative option with regard to the proposed size and location. The applicant to provide comment on the impact to future homes nearby, a scaled drawing detailing immediate and existing needs, and validation that equipment is currently owned. This information will be critical to help the Board make a determination since the size is so substantial. The requested information should be provided to the Building Department no later than November 25, 2020.

Seconded by Dan Melville. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

3. SCOTT SPICER- 80 WINDING COUNTRY LANE

The application of Scott Spicer, owner, for property located at 80 Winding Country Lane. The applicant is proposing to build a single family home on this property at the end of the road, which would bring the total of dwelling units on the cul-de-sac to 48. The applicant is requesting relief from Parma Town Code Chapter 30, Article IV, subsection 130-15.A.7.b, which states that no cul-de-sac shall be allowed to serve more than 20 dwelling units. This property is currently zoned Medium Density Residential (MD).

John Sciarabba, Engineer on behalf of the owner, explained that his client purchased an 18 acre parcel to build a single family home. At the Planning Board they found out about the

code issue and they need an area variance to continue with the project. This road was supposed to go all the way thru to Ridge Road but then it was abandoned. The road is 26 houses beyond what the code allows already so Mr. Sciarabba felt adding three more lots does not seem like a lot. There is an additional 12 acres owned by someone else so there is no way to expand the road through to Ridge Road.

Acting Chairperson Thomas stated the Planning Board met on Monday and they prepared a letter for the Zoning Board offering two comments as follows: The Planning Board would like to see a 60ft wide access easement that would start at the end of Winding Country Lane and extend to the north line of this property allowing for the continuation of Winding Country Lane if access to Route 104 can be obtained in the future. The hammerhead (turn around) is in poor condition as it was originally supposed to be temporary, this would need improvement and need to be made permanent. Both items need to be addressed prior to the Planning Board proceeding with their review.

Attorney Warner noted this subdivision was supposed to be a thru road to Ridge Road giving two ingress and egress access points. This is not the only abandoned subdivision that is having issues due to State and Town law. She will look into further options for this application. The Zoning Board could grant a variance but it would need to be looked at further. The concern is that the road is not currently wide enough to get emergency vehicles through. Veronica Robillard does not think the Zoning Board can authorize continued development without putting the Town and development in further jeopardy. Ms. Warner suggested tabling this until further research is done. Acting Chairperson Thomas felt it would be inappropriate for the Zoning Board to allow further development without looking into this further.

Mr. Sciarabba does not feel this application is a big deal considering they are already 26 houses over the allowed amount. Attorney Warner asked him to understand the Town's position and give her time to research this and see if there are options available.

Public Comment: None

Public Hearing: Closed

A motion was made by Stephen Shelley to **table** the application of Scott Spicer, owner, for property located at 80 Winding Country Lane to the December 2020 Zoning Board of Appeals meeting without prejudice to allow the Town Attorney to do research and present possible options available to the applicant and the Town to comply with the State and Town codes.

Seconded by Dan Melville. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

4. DOUG MILLER – 4618 RIDGE ROAD WEST

The application of Doug Miller, owner, for 3 area variances at 4618 Ridge Road West. The owner is proposing to erect a 50.16 square feet changeable electronic freestanding advertising sign with a height of 20' and is requesting relief from 1) subsection 165.111.F which states in part that no sign shall be animated or flashing, 2) subsection 165-113.4.b which limits the area of freestanding signs to 32 square feet and 3) subsection 165-113.5

which limits the height of a freestanding sign to 16 feet. The property is currently zoned Highway Commercial (HC).

Acting Chairperson Thomas noted that the current code does not give the Board the opportunity to grant relief for electronic signs. The Board would like the applicant to provide a letter withdrawing the request instead of denying this so that if the Town allows this at a later time the applicant could bring the application again.

A motion was made by Dan Melville to table the application of Doug Miller, owner, for 3 area variances at 4618 Ridge Road West to the December 2020 Zoning Board of Appeals meeting to afford the applicant time to provide a letter of intent to withdraw the application at this time.

Seconded by Stephen Shelley. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

5. RANDALL & MARTHA GARDNER – 1780 CLARKSON PARMA TOWN LINE ROAD

The application of Randall and Martha Gardner, owners, for an area variance at 1780 Clarkson Parma Town Line Road. The owners are proposing to construct a 24'x32' accessory building in the side yard and are requesting relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard. This is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas noted that this was tabled last month because there was no one here for the application. Jeff Freier, builder on behalf the applicant, explained that he was not at the meeting because he was not aware he could attend in person and he does not have the ability to zoom. He explained the applicant is requesting to build this structure on a corner lot which will be used for storage, arts & crafts, and as a workshop. The structure will look identical to the house. The driveway goes to the proposed location. This structure meets the code for size and will sit over 100' from the road.

Board Discussion: Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination and is an unlisted action. There are no letters in the file.

Public Comment: None

Public Hearing: Closed

A motion was made by Stephen Shelley to **approve** the application of Randall and Martha Gardner, owners, for an area variance at 1780 Clarkson Parma Town Line Road to construct a 24'x32' accessory building in the side yard granting relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard. This is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned Agricultural/Conservation (AC).

Using the balancing test the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. This is a corner lot and this is the minimum variance necessary to accomplish what the applicant is looking to achieve.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is not substantial.
- 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 far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Dan Melville. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

6. JASON RANDALL – 261 DEAN ROAD

The application of Jason Randall, owner, for 2 area variances at 261 Dean Road. The applicant is proposing to build two accessory structures with a total square footage of 5,600 sq. feet and is requesting relief from Town Zoning Article V, subsection 165-32.C.2 which limits the size of accessory structures to 1,500 sq. feet. One of the structures is being built in the side yard and the applicant is requesting relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory structures shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Kris Schultz, engineer on behalf of the applicant, explained that the applicant is in the process of merging two lots on Dean Road and getting site plan approval through the Planning Board. They are proposing to build a 5,000 sq. foot house, an in ground pool, pool house and an accessory structure. The house and all improvements will sit outside the floodplain. The application asked for 5,600 sq. feet of accessory but after final planning the actual amount will be 5,461.5 sq. feet. The pool house will match the house. The accessory structure will house a gym along with cars and boats. Everything will sit behind Northrup Creek which is wooded with perimeter trees to shield everything. The house and accessory structure will sit over 400' from any neighbors and not viewable from the road. The property is over 11 acres.

Acting Chairperson Thomas asked what prohibits the barn from being in the back yard versus the side yard. Mr. Schultz said if this is pushed back it will interfere with the leach bed and due to the grading of the yard it would need to be built up and require more trees to be cleared.

The pool house will have a bathroom, changing room, BBQ setup, not a full kitchen. There is concern the pool house could be turned into a second residence. Mr. Schultz said there will be no sleeping accommodations and will not be set up for year round use. Chairperson Robillard asked if the accessory structure can be scaled down; it seems to have free space available. Kris Schultz noted that they really cannot go smaller; they need to be able to move around. He stated this is the size he needs and he is asking for the size so he will not have to come back for approval of another accessory structure in the future.

Acting Chairperson Thomas said he does not have an issue with the pool house, but he is concerned with the size of the accessory structure. Attorney Warner asked about the applicant's ability to go with a smaller accessory structure and if he had any other plan to show a smaller building. Kris Schultz noted that this is the smallest they can go; the applicant currently owns all of the things that will be stored and he actually wanted a bigger building than what he requested.

Board Discussion: Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination; this is a Type II action. There were no letters in the file.

Public Comment: None

Public Hearing: Closed

A motion was made by Dan Melville to **approve** the application of Jason Randall, owner, for 2 area variances at 261 Dean Road to build two accessory structures with a total square footage of 5,600 sq. feet granting relief from Town Zoning Article V, subsection 165-32.C.2 which limits the size of accessory structures to 1,500 sq. feet. One of the structures is being built in the side yard and this will grant relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory structures shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Using the balancing test the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant is proposing the minimum sized structure he can have to store the belongings he currently owns. This will be an extraordinarily unique property in the Town.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is substantial but is mitigated by the fact the property will be 11 acres and will sit far off the road and will not be seen.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community. This approval is conditioned on the two properties being merged through the Planning Board.

Seconded by Stephen Shelley. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

7. JOHN PROUTY – 961 PARMA CENTER ROAD

The application of John Prouty, owner, for an area variance at 961 Parma Center Road. The applicant is proposing to construct a 160 square feet storage building on property that has an existing 2,009 square feet accessory structure, which would bring the total square footage of accessory structures to 2,169 sq. feet and is requesting relief from Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. feet. This property is currently zoned Agricultural/Conservation (AC).

Brad Norbut, contractor from Frontline Remodeling on behalf of the applicant, stated the applicant put a pool in last year and they are looking to put a 169 sq. foot building up, half of it will be under cover and the rest open. There will be no power, water or bathroom facilities and will be used to store pool stuff.

Board Discussion: Art Fritz reported notifications are not in order. Acting Chairperson Thomas noted that because notifications are not in order, the Board is prohibited from hearing the application. Mr. Norbut was not aware of any notifications. The notifications would have been sent to the homeowner to mail to the neighbors within 500’.

Public Comment: None

Public Hearing: Closed

A motion was made by Stephen Shelley to **table** the application of John Prouty, owner, for an area variance at 961 Parma Center Road without prejudice to the December 2020 Zoning Board of Appeals meeting to afford the applicant time to send out the neighborhood notifications.

Seconded by Dan Melville. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

MINUTES OF OCTOBER 15, 2020

The ZBOA minutes of October 15, 2020 were reviewed. **Motion** was made by Veronica Robillard to approve the October 15, 2020 minutes as amended. **Seconded** by Corinne Zajac. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

MINUTES OF OCTOBER 27, 2020 – WORKSHOP MTG

The ZBOA minutes of the October 27, 2020 Workshop Meeting were reviewed. **Motion** was made by Veronica Robillard to approve the October 27, 2020 minutes as submitted. **Seconded** by Acting Chairperson Thomas. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville **seconded** by Corinne Zajac to adjourn the meeting at 9:40 p.m. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

Respectfully submitted,

Carrie Fracassi
Recording Secretary