

TOWN OF PARMA
ZONING BOARD OF APPEALS
February 17, 2021

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

Members Present: Dan Melville, Veronica Robillard (via Zoom), Stephen Shelley (via Zoom), Tim Thomas, Greg Colavecchia (alternate)

Members Excused: Corinne Zajac

Others Present: Art Fritz, Councilperson Blake Keller

Public Present: David George, Emily Goodman, Devin Goodman, Randy DeVos, Lisa DeVos, Brian Dudley, Dan Feeney, Dick Vance, Adam Jay, Judy Smith, Marcia Ziegler

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; there are 5 members present, 2 via Zoom. A quorum of three is required to pass a motion.

NEW BUSINESS

1. MATTHEW RUSSELL – 420 OGDEN PARMA TOWN LINE ROAD

The application of Matthew Russell, owner, for three area variances at 420 Ogden Parma Town Line Road. The applicant has constructed a 3,375 sq. foot storage structure with a 14' wall height as well as 2 lean-tos that are attached to the structure that are a total of 1,455 sq. foot in size, for a total of 4,830 sq. foot. He is requesting relief from 1) Town Zoning Article V, subsection 165-33.C.2 which limits the square footage of accessory buildings to 600 sq. foot, 2) Town Zoning Article 165-82.C.2. which limits the wall height to 12' and 3) Town Zoning which states by definition that accessory structures shall be subordinate in area to the principal building which in this case is 2,407 sq. foot. This property is currently zoned Medium Density Residential (MD).

Acting Chairperson Thomas noted that the applicant emailed the Town asking to table this application to the March 2021 Zoning Board meeting so he can review the information with his attorney.

Acting Chairperson Thomas read an email from the NYS DEC stating the following: They would like the Town to hold off on a decision for this application until the DEC is able to come in and do a site inspection to determine the exact boundary of the wetland and adjacent area. Due to deep snow cover they are unable to make that determination. At least a portion of the project was done within the regulated 100 ft. adjacent area of Freshwater

Wetland PM – 15 and a wetland delineation will need to be performed. NYSDEC plans on performing a wetland delineation at the site to document the boundaries and determine whether the structure would have been permissible. Any further construction, excavation/fill at this location, including removal if requested by the Town, should not proceed until approval is given by the DEC. The Town of Parma has issued a stop work order and the NYSDEC would like to see that upheld until all approvals are given.

Acting Chairperson Thomas asked how we got to this point and why the building is half constructed. Art Fritz stated the Town received a complaint in October because there were trusses in the driveway. A letter was mailed to the applicant stating that he needed to contact the building department if he was planning to construct on his property. He never responded to the letter, stating he never received it. He started building in January and the building was half constructed before he came in to get a permit after a Stop Work Order was posted. The applicant was not in the audience to address this.

A motion was made by Dan Melville to **table** the application of Matthew Russell, owner, for three area variances at 420 Ogden Parma Town Line Road to the March 2021 Zoning Board of Appeals meeting at the request of the applicant and pending DEC approval. Any new information must be received in the Building Department by March 3, 2021.

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

TABLED FROM JANUARY 20, 2021 MEETING

2. 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).

Acting Chairperson Thomas noted this was tabled in January to the March 2021 Zoning Board of Appeals meeting.

3. RANDOLPH & LISA DeVOS – 450 MOUL ROAD

The application of Randolph and Lisa DeVos, owners, for two area variances at 450 Moul Road. The applicants are proposing to construct a 960 square foot horse barn with a side setback of 26.5 feet on property that has 1,536 square feet of existing accessory structures, which would bring the total square footage of accessory structures to 2,496 sq. feet and are requesting relief from Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. feet and 165-31.B.2.a which states in part that no building in which farm animals are kept shall be closer than 100 ft. to a side property line. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas noted this was tabled at the last meeting to allow the applicant time to provide more information regarding location. It was determined at the meeting that the applicant did not need the variance for the sq. footage of the building because the other structure on the property is their garage. A formal approval to withdraw that variance request has been made by the applicant.

Randolph DeVos provided letters of support from his neighbors and explained he has provided information moving the structure to 40' from the property line, which puts him 100' from the well and will keep him from having to remove some trees keeping the costs down, estimate of that removal was provided.

Letters in support were read from Alexandra Baker, 460 Moul Road; Linda Judd, 423 Moul Road; Joseph Morgigno, 440 Moul Road; James Smith, 254 North Avenue; and Carole Andia, 198 North Avenue. All letters stated that they have seen the proposed area of where the structure would be, they understand the purpose of the barn and they do not dispute the location, size, or purpose. Linda Judd also stated that all work completed on the property has always been well done and the property is always immaculate. She stated that there is no reason the new barn on the property would be a problem for the neighbors or community.

Stephen Shelley stated it is important to keep this structure at least 100' from the well as the code calls out.

Public Comment: None

Public Hearing Closed

Board Discussion: Board discussion was handled during the January 2021 meeting.

A motion was made by Dan Melville to **approve** the application of Randolph and Lisa DeVos, owners, for one area variance at 450 Moul Road to construct a 960 square feet horse barn with a side setback of 40 feet from the west property line requesting relief from Town Zoning Article V, subsection 165-31.B.2.a which states in part that no building in which farm animals are kept shall be closer than 100 ft. to a side property line. 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. The cost to move this further to the west would be cost prohibitive due to having to move some large trees as evidenced by the applicant.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is substantial; however, the applicant has worked with the Town to move the setback request from 26.5 feet to 40' from the property line.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because of the way the property is situated with the well. This approval is the minimum variance necessary. 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 carried to approve (5-0) (Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas; **Excused:** Corinne Zajac).

The Board has accepted the withdrawal of the size request from the application. The variance is not needed because the current structure on the property is the garage and is not included in the sq. footage.

NEW BUSINESS

4. DANIEL FEENEY – 115 HINKLEYVILLE ROAD

The application of Daniel Feeny, owner, for an area variance at 115 Hinkleyville Road. The applicant is proposing to construct a 12'x24' garage addition on to the existing garage with a side setback of 4.23 feet to the front corner of the garage and a side setback of 8.2 feet to the back corner of the garage. He is requesting relief from Town Zoning Article V, subsection 165-33.E.1, schedule 1 which states that the side setback is to be 10'. This property is currently zoned Medium Density Residential (MD).

Daniel Feeny, owner, stated that he has owned the property for 11 years. The house was built in 1971, the existing garage is very small and there are no additional outbuildings on the property. The addition will blend in with the house and the reason to extend the addition 2' past the house is to blend the roof lines. The addition will be used for storage and to house a classic car that he currently pays to store.

The state fire code states that no structure should sit closer than 5' from the property line. Art Fritz suggested that the Board stay with that setback and not violate it. Dan Melville has no problem with the addition but thinks the applicant should agree to the 5 feet which could be accomplished by moving the addition back slightly. Stephen Shelley agreed that violating the State Code is not a good idea.

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. There are no comments from the ZEO or Building Department.

Acting Chairperson Thomas is leaning towards tabling this to allow the applicant time to look at other options. The applicant said there are a couple ideas he could look at.

A motion was made by Greg Colavecchia to **table** the application of Daniel Feeny, owner, for an area variance at 115 Hinkleyville Road to the March 2021 to afford the applicant time to revisit the application for alternatives to comply with the side setback. Any new information should be to the Building Department by March 3, 2021.

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

5. DEVIN GOODMAN and EMILY CICERO– 339 HUFFER ROAD

The application of Devin Goodman and Emily Cicero, owners, for Special Permit at 339 Huffer Road. The applicants are proposing to operate an in-home business (bakery) in a

part of their garage in accordance with Town Zoning Article IX, subsection 165-79.1. The property is currently zoned Agricultural/Conservation (AC).

Devin Goodman, owner, explained they would like to operate a bakery out of their garage. They have a three-car garage and would convert the garage closest to the house into a kitchen. There would be no employees, or customers at the business location and they are working on their licensing through the Department of Health. Art Fritz explained that they would still have a garage so they will still comply with the code.

Veronica Robillard asked if there would be home deliveries. The applicant stated no. Stephen Shelley asked if they would have a physical separation between the baking area and garage. They will be drywalling and if a firewall is needed by the code, they will comply with that.

Public Comment: None

Public Hearing Closed

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. There were no comments from the ZEO and Building Department.

A motion was made by Dan Melville to **approve** the application of Devin Goodman and Emily Cicero, owners, for Special Permit at 339 Huffer Road to operate an in-home business (bakery) in part of their garage in accordance with Town Zoning Article IX, subsection 165-79.1. The property is currently zoned Agricultural/Conservation (AC). The following conditions will apply:

1. The applicants to abide by Town Zoning Article IX, subsection 165-79.1.
2. There shall be no signage on the property.
3. There shall be no customers.
4. The applicants shall maintain all state and local licenses/permits.
5. The Special Permit is renewable February 2022.
6. This Special Permit is issued to the applicants only and is not transferrable.

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

6. ADAM JAY – 1209 PECK ROAD

The application of Adam Jay, owner, for two area variances at 1209 Peck Road. The applicant is proposing to replace an existing home that has a front setback of 44.6 ft. with a 1,500 sq. foot home and is requesting relief from Town Zoning Article V, subsection 165-31.E.1, schedule 1 which states that the front setback is to be 75 feet and Town Zoning Article V, subsection E.2.a which states that the minimum total living area for a one story building is to be 1,600 sq. feet. This property is currently zoned Agricultural/Conservation (AC).

Adam Jay, applicant, stated that he is looking to build a house in the existing footprint of the current house. They are unable to comply with the Code to move this further from the road

because the septic is right behind the house and there is a pond behind the septic. They would put in a new foundation because the current foundation is stone. There would be considerable expenses to move this into compliance, including filling and digging a new foundation, moving the septic system, and situating this closer to the pond. There are many houses on Peck Road that sit this close to the road. The history of the house was discussed.

Public Comment:

Judy Smith, 1210 Peck Road, feels that the applicant will do a great job maintaining the property and it will be nice to have the property rebuilt and used again.

Public Hearing Closed

Board Discussion: Art Fritz reported notifications were in order. Comments had not been returned from Monroe County as of the meeting. This is an unlisted action. There are no letters in the file and no comments from the ZEO or Building Department.

A motion was made by Dan Melville to **approve** the application of Adam Jay, owner, for two area variances at 1209 Peck Road to replace an existing home that has a front setback of 44.6 ft. with a 1,500 sq. foot home granting relief from Town Zoning Article V, subsection 165-31.E.1, schedule 1 which states that the front setback is to be 75 feet and Town Zoning Article V, subsection E.2.a which states that the minimum total living area for a one-story building is to be 1,600 sq. feet. 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. It would be very cost prohibitive to comply with the Code. The applicant would have to move the septic and leach field. The structure will be 1500 sq. feet because the applicant is using the existing footprint.
- There will be no undesirable change in neighborhood character or to nearby properties. The current structure already sits in this location.
- The request is substantial, but the property has been this way for 100 years and predated the current code.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created, the house has been in this location and the applicant is using the existing footprint. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

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

SPECIAL PERMIT RENEWALS

7. BRIAN DUDLEY - 1173 PECK ROAD

The application of Brian Dudley, contract vendee, to renew the Special Permit at 1173 Peck Road to operate an in-home business in a proposed accessory structure, in accordance with Town Zoning Article IX, subsection 165-79.1.E.2. This property is currently zoned Agricultural/Conservation (AC).

An inspection was completed on January 27, 2021. At the time of the inspection, there were no violations of the Special Permit conditions. There are no complaints in the file. The applicant is requesting this to be renewed for 4 or 5 years. The applicant's State License and FFA license expire every three years in July/August, the Board would like to keep this permit on the same cycle.

After discussion, a **Motion** was made by Dan Melville to **approve** the renewal of the Special Permit at 1173 Peck Road to operate an in-home business in a proposed accessory structure, in accordance with Town Zoning Article IX, subsection 165-79.1.E.2. This property is currently zoned Agricultural/Conservation (AC).

In making the motion to approve the Special Permit it will be conditioned on the following:

1. The in-home business must meet and pass federal and state inspections.
2. There will be no signage.
3. There will be no annoying sounds, lights or odors that could disturb the neighbors.
4. There will be no employees.
5. There will be no on-street parking.
6. Visitors, if any, will only come to the residence by appointment so as not to disturb neighbors.
7. Deliveries will be limited to UPS, Fed Ex and other companies.
8. This Special Permit is issued to the applicant only and is not transferrable.
9. This Special Permit will be renewable in July 2024.

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

8. GOOD NEWS COMMUNITY CHURCH – 4797 RIDGE ROAD

Application was received from Good News Community Church, owner, for renewal of a Special Permit at 4797 Ridge Road West to operate a church. Article 5.3.D.2 requires a Special Permit to operate a church in a Medium Density Residential (MD) district.

There was a Special Permit Inspection completed on February 3, 2021 with no violations cited in respect to the Special Permit. There are no complaints in the file.

Following discussion, A **Motion** was made by Dan Melville to **approve** the application of Good News Community Church, 4797 Ridge Road West, for renewal of a Special Permit to operate a Church with the following conditions:

1. Hours of service to be Sunday, 10am to Noon, Tuesday, 7pm to 9pm and Thursday, 6pm to 8pm. Vacation Bible Study to be in August.
2. Limited outside activity such as camping with a maximum number of campers to be 16, including adults. Camping would include only tents, and not exceed 2 or 3 nights in duration. Limited to an average of twice a month. Camping locations to be limited to the area indicated on the map provided.
3. Any other activities on the premises shall be within the normal zoning ordinance.
4. All necessary inspections to be made by the Building Department and the Fire Marshal to assure the health, safety, and welfare of the community.
5. This Special Permit is issued to the applicant only and is not transferrable.
6. Renewable in February 2024.

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

MINUTES OF JANUARY 20, 2021

The ZBOA minutes of January 20, 2021 were reviewed. **Motion** was made by Stephen Shelley to approve the January 20, 2021 minutes as presented. **Seconded** by Veronica Robillard. **Motion carried to approve (5-0)** (Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas; **Excused**: Corinne Zajac).

OTHER BUSINESS

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville **seconded** by Veronica Robillard to adjourn the meeting at 8:35 p.m. **Motion carried to approve (5-0)** (Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas; **Excused**: Corinne Zajac).

Respectfully submitted,

Carrie Fracassi
Recording Secretary