

**TOWN OF PARMA
ZONING BOARD OF APPEALS
July 19, 2007**

Members Present: Patrick Buskey
Dean Snyder
Veronica Robillard
Stephen Shelley
Tim Thomas

Others Present: Art Fritz, Mark Kalen (alternate)

Public Present: See attached list

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

TABLED PUBLIC HEARINGS

1. WILLIAM DEGRAEVE, JR. – 175 COLLAMER ROAD

The application of William DeGraeve, Jr., owner, for use and area variances at 175 Collamer Road. Applicant is requesting to allow the use of an apartment in the detached garage/workshop structure and is requesting relief from Town Zoning Article 5, subsection 165-32.B.1 which allows only single family dwellings and agricultural operations as permitted principal uses. Applicant is also requesting relief from Article 5, subsection 165-32.E.2 which requires two story dwellings to have 1,800 square feet. This apartment has an area of 728 square feet. This property is currently zoned Rural Residential (RR).

William recalled the Zoning Board's request at the June meeting for an audit history trail showing continuous use as a rental property. Bonnie DeGraeve, William's mother, explained that she purchased the property in 1986 and then sold it to her son in 2006. During the time she owned the property, they had 9 renters from 1987 to 2006. She presented copies of her 1991 to 2005 income tax returns, which showed the rental property income and the records of their purchase of the property which included the rental apartment. Bonnie noted that she did not make copies of this paperwork because of the personal information on them, including social security numbers. She recalled Wanda's statement at the June meeting when she recalled her childhood and that the property was rented back to the 1930's. Patrick Buskey added that he recently spoke with someone who confirmed this was rental property in the 1970's.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard asked Bonnie DeGraeve how many apartments were rented out. Bonnie replied that this was rented as a single family apartment. Chairperson Robillard suggested that a summary of the rental record be provided to the Board for documentation for the file. Bonnie provided a handwritten record of the rental history. Chairperson Robillard suggested that a copy of the income tax returns with the personal information blacked out be provided and also that a summary of the rental history be notarized for documentation.

Following discussion, a **Motion** was made by Tim Thomas to accept the application of William DeGraeve, Jr., owner, for use and area variances at 175 Collamer Road to allow the use of an apartment in the detached garage/workshop structure and to grant relief from Town Zoning Article 5, subsection 165-32.B.1 which allows only single family dwellings and agricultural operations as permitted principal uses. Applicant is also granted relief from Article 5, subsection

165-32.E.1, which requires two story dwellings to have 1,800 square feet. This apartment has an area of 728 square feet. This property is currently zoned Rural Residential (RR). This application is accepted as a pre-existing, non-conforming use and in accepting the application, I believe the applicant has demonstrated to my satisfaction that the property in question has been rented at least back to the 1930's and they also have evidence that documents the same from 1987 to the current year. Acceptance of this application with the following conditions:

- A notarized document be provided from the owner which lists three specific things dating from 1987 to 2007: (1) list of tenants; (2) period of residence; and (3) associated rental fees
- Upon review by the Town Attorney, we reserve the right to be asked for additional documentation to support this rental, such as income tax returns with personal information blacked out, as the Town Attorney might deem necessary to support this approval.

The requested documentation is to be provided within 30 days of this meeting. Motion seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

2. RICHARD NOWACK, JR. – 401 WILDER ROAD

The application of Richard Nowack, Jr., owner, for area variances at 401 Wilder Road. Applicant is proposing to construct a 576 square feet accessory storage structure at a setback of 3 feet from the property line and is requesting relief from Town Zoning Article 5, subsection 165-34.C.2 which limits accessory storage structures to 400 square feet and schedule 1 which requires a 10 feet setback. This property is currently zoned High Density Residential (HD).

Richard recalled that at the June meeting, his application was tabled to allow him time to provide a specific list and drawing to justify the need for a 576 square feet accessory storage structure and to justify the 3 feet setback. Richard and his wife, Charmaine, provided a sketch of the proposed accessory storage structure which indicated placement of the items to be stored, which included the following items: 72" riding mower, dump cart, 48" snow thrower and tractor, 32" walk behind snow thrower, 41" tiller attachment for tractor, 24" tiller, 10" tiller, car, 21" mower, motorcycle, 3 bicycles and a wheelbarrow. Richard noted that much of this equipment is needed to maintain their 5.76 acres. Tim Thomas asked why a 3 feet setback is requested. Richard replied that the neighbor preferred this placement. Also they did not have to move the existing garden and trees, including blueberry bushes that can't be moved. Richard noted that the neighbor has a 35 feet long wild patch which would hide the structure.

Public Comment: None. The public hearing was closed.

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

It was noted that Richard has 5.76 acres and there appeared to be room to move this structure further away from the lot line. Richard stated that he could go to a 5 feet side setback.

Following discussion, a **Motion** was made by Tim Thomas to approve, with a change of setback, the application of Richard Nowack, Jr., owner, for area variances at 401 Wilder Road to construct a 576 square feet accessory storage structure at a setback of 5 feet from the property line and this grants relief from Town Zoning Article 5, subsection 165-34.C.2, which limits accessory storage structures to 400 square feet and schedule 1 which requires a 10 feet setback. This property is currently zoned Rural Residential (RR). In making this determination to approve the setback and square footage, I believe the benefit can not be achieved by other means feasible to the applicant. Relative to the square footage, the property is 5.76 acres which is sufficiently adequate for a

structure this size. Also, the applicant has determined, to my satisfaction, the items that he needs to store. These include: 72" riding mower, dump cart, 48" snow thrower and tractor, 32" walk behind snow thrower, 41" tiller attachment for tractor, 24" tiller, 10" tiller, car, 21" mower, motorcycle, 3 bicycles and a wheelbarrow. The setback will be 5 feet instead of the requested 3 feet, which the applicant has agreed to. There will be no undesirable change in the neighborhood character and to nearby properties. The location was agreed to by the neighbor and there appears to be adequate vegetation to screen the structure from the street and the neighbor. The request is substantial for the setback, as 10 feet is required. The setback approved is 50% less. The size of the structure is substantial. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created, however, the applicant has tried to mitigate the circumstances with the neighbor and tried to keep his garden and trees intact. 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: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

3. DAVID KEHOE – 582 BURRITT ROAD

The application of David Kehoe, owner, for an area variance at 582 Burritt Road. Applicant is proposing to replace existing shed on property with new 10 feet by 14 feet structure at the same rear setback of 10.6 feet and is requesting relief from Town Zoning schedule 1 which requires a setback of 20 feet from the rear property line. This property is currently zoned Rural Residential (RR).

David recalled that his application was tabled at the June meeting to allow the applicant time to obtain a certificate of mailing for the five notifications that were not date stamped. Art Fritz confirmed that these were provided by the applicant. David stated that he had no new information to present.

Public Comment: None. The public hearing was closed.

Board Discussion: Following discussion, a **Motion** was made by Stephen Shelley to approve the application of David Kehoe, owner, for an area variance at 582 Burritt Road to replace the existing shed on the property with a new 10 feet by 14 feet structure at the same rear setback of 10.6 feet and this grants relief from Town Zoning schedule 1 which requires a setback of 20 feet from the rear property line. This property is currently zoned Rural Residential (RR). In making this determination to approve, I do not believe that the benefit can be achieved by other means feasible to the applicant. The applicant has demonstrated that there is interference in the yard that would preclude any other placement. There will be no undesirable change in neighborhood character or to nearby properties. On the contrary, this will be an improvement. The request is substantial. This is 50% of the current zoning, but a pre-existing condition. There will be no adverse physical or environmental effects. This is not a self-created difficulty, as he purchased the property with the existing shed on it. 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 (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

4. BRIAN STAUB – 327 LIGHTHOUSE ROAD

Application of Brian Staub, owner, for area variances at 327 Lighthouse Road. Applicant is proposing a 11.8 feet by 24 feet addition to the southwest corner of the existing home with a side setback of 10.4 feet and a front setback of 31.55 feet from the road right of way. Applicant is also proposing to rebuild the north entrance to the home and is proposing to maintain the same front setback as the existing entry way of 24 feet. Applicant is requesting relief from Town Zoning schedule 1 which requires a 75 feet front setback and Article 11, subsection 165-87.A.1 which requires a 21.7 feet side setback. This property is currently zoned Rural Residential (RR).

Brian reported that he purchased this 8.5 acre property under foreclosure in March. He explained his plan to make improvements to this home and make it more square. He noted the roof over the north entrance is caving in and the walls are rotting out, making it unsafe. He provided a rough drawing of his plan to improve this. He explained he is trying to make the home larger on the south west corner. Chairperson Robillard noted the numerous branches that Brian has cleared out. Brian stated that the inside is not yet habitable. Art Fritz stated Brian has a permit to renovate this home.

Public Comment: None. The public hearing was closed.

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

Following discussion, a **Motion** was made by Dean Snyder to approve the application of Brian Staub, owner, for area variances at 327 Lighthouse Road for an 11.8 feet by 24 feet addition to the southwest corner of the existing home with a side setback of 10.4 feet and a front setback of 31.55 feet from the road right of way. Applicant is also proposing to rebuild the north entrance to the home and is proposing to maintain the same front setback as the existing entry way of 24 feet. This grants relief from Town Zoning schedule 1 which requires a 75 feet front setback and Article 11, subsection 165-87.A.1 which requires a 21.7 feet side setback. This property is currently zoned Rural Residential (RR). In making this determination to approve, it is my belief that the benefit can not be achieved by other means feasible to the applicant. The applicant purchased this property which was in very poor condition and is looking to improve the building significantly. There will be no undesirable change in neighborhood character or to nearby properties. This will significantly improve the look of the property. The request is substantial. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created in that the current owner purchased this property in poor condition but is doing his best to improve the condition. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

5. LYNN GORDON – 11 ALDER BEACH ROAD

Application of Lynn Gordon, owner, for area variances at 11 Alder Beach Road. Applicant is proposing to raze the existing home and construct a new single story home with a proposed side setback of 4 feet from the westerly property line and without a garage and is requesting relief from Town Zoning schedule 1 which requires a 10 feet side setback and Article 5, subsection 165-35.E.3 which states, in part, that each principal dwelling shall have a garage. This property is currently zoned Waterfront Residential (WF).

Lynn explained that he moved to 11 Alder Beach Road 30 years ago. He stated that in 1977 they didn't do any surveying and a recent survey showed a 42.3 feet lot width for his 697 square feet, 2 bedroom ranch home which is built on pilings and open underneath. He noted it is winterized. He stated a side porch was added for summer use. He explained he is looking to tear down and build a new house. He is planning a 40 feet x 38 feet, 1095 square feet, 2 bedroom ranch. He is requesting a 4 feet setback on the west, which gives him a 10'3" variance on the east. He explained this placement gives him room for a break wall and flood control. The location is 12 feet farther north than presently but the south side is 10 feet, changing from 38 feet to 40 feet. He reported that these setbacks are not unique to the neighborhood, noting #10 Alder Beach is farther north, but his home will be farther north than #12 but won't interfere with him. Most of the properties have similar 4' setbacks. The shed will stay up but has been moved. He stated that he owns property across the street through a neighborhood association. He explained that he has no room for a garage because of the septic system, which he noted will be redone during this reconstruction. He noted that three neighbors have built garages across the street but getting approval from the DEC and the association can be difficult. He stated he doesn't want to build a structure across the street.

Public Comment:

Scott North – 10 Alder Beach Road: He suggested that this home be placed 5 feet off the lot line. He recalled his application in the past for 3 feet side setbacks in 2005, which was rejected. He received a 4.5 setback on the west and 7 feet side setback on the east. Patrick Buskey recalled that these setbacks were approved to provide access to the water for maintenance of the break wall. It was noted that Lynn was going to 4 feet instead of the current 2.8 feet which will be an improvement.

Lee Fella – 15 Alder Beach Road: He recalled he was here for a variance and was denied. He resubmitted his request and it just squeaked by. He stated that no houses are built with less than a 10 feet setback. He questioned why this is okay now but not before. Chairperson Robillard explained that each request is taken individually and each applicant's unique circumstances are considered.

Gerry Grenzer – 12 Alder Beach Road: Questioned if there is a minimum width allowed. Lynn stated that if the house were made narrower, it would have to be longer.

Rita Lesnick – 13 Alder Beach Road: Looking to sell her house and wanted to know what the process is if someone wanted to make any changes. She stated that Mr. Gordon has always opposed the neighbor's requests for changes. Lynn responded that he objected to Scott North's request for 3 feet setbacks, as it didn't leave enough room to get equipment through to work on the break wall. Scott North recalled that he modified his request to a 5 feet variance to the west with a 2 feet overhang and a 7 feet variance to the east.

The public hearing was closed.

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

Discussion was held on the difficulty Lynn may encounter in trying to get approval to build a garage on the association shared property across the street

Following discussion, a **Motion** was made by Dean Snyder to approve the application of Lynn Gordon, owner, for area variances at 11 Alder Beach Road to raze the existing home and construct a new single story home with a proposed side setback of 4 feet from the westerly property line and without a garage and this grants relief from Town Zoning schedule 1 which requires a 10 foot side setback and Article 5, subsection 165-35.E.3 which states, in part, that each principal dwelling shall have a garage. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. The applicant has a very small lot, less than 50 feet in width, and he is trying to replace the house built on piers for a house consistent with current standards. There will be no undesirable change in the neighborhood character or to nearby properties. In the proposed placement of this building, the westerly property line setback has been increased a small amount and the eastern setback has been decreased approximately 1.8 feet in the most extreme northeast corner. I believe this placement minimizes the impact on each of the neighbors. The request is substantial. There will be no adverse physical or environmental effects on the property since placement is very similar to the existing substandard building. 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. In making the determination not to require the garage, any location on the property has been examined and deemed inappropriate, therefore, there is no adequate place to locate the garage and that is why we are allowing the house to be built without a garage. Seconded by Stephen Shelley. **Motion carried (3-2)** (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley; Nays: Patrick Buskey, Tim Thomas)

A 10 minute recess was called at 8:30 pm.

6. R2F2, INC. – 5570 RIDGE ROAD WEST

Application of R2F2, Inc., for area variances at 5570 Ridge Road West. Applicant is proposing an addition to the front building with a front setback of 11 feet from the road right of way and a side setback of 19 feet from the westerly property line and is requesting relief from Town Zoning schedule 1 which requires a 100 feet front setback and a 20 feet side setback. This property is currently zoned Highway Commercial (HC).

Art Fritz reported that the applicant called and will not be present tonight. The applicant has not obtained the required notifications.

A **Motion** was made by Stephen Shelley to table the application of R2F2 for area variances at 5570 Ridge Road West, without prejudice until the August meeting. The applicant was not present at this meeting and the ZEO stated that notifications were not completed as required. Seconded by Patrick Buskey. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

7. WALTER AND PATRICIA MILLARD – 244 NORTH AVENUE

Application of Walter and Patricia Millard, owners, for an area variance at 244 North Avenue. Applicants are proposing to construct a 10 feet by 15 feet entrance porch on the south side of their home with a front setback of 60 feet from the road right of way and are requesting relief from Town Zoning schedule 1 which requires a setback of 75 feet. This property is currently zoned Agricultural Conservation (AC).

Walter explained that the existing porch size is inadequate and unsafe for entrance into this house, which was built in 1930. The porch is actually a stoop that is so small that when you open the door, you have to step down. The radius of the door is about the same as the stoop. Patricia stated that she often cuts her toe on the door when she opens the door due to lack of room to stand. She expressed concern that her grandchildren might fall backwards off the stoop when the door is opened. Walter is proposing to replace this stoop with a 10 x 15 porch to provide a safe entrance into their home.

Public Comment:

Jim Smith – 254 North Avenue: Stated he lives to the south and agrees with this proposal.

The public hearing was closed.

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

A **Motion** was made by Tim Thomas to approve the application of Walter and Patricia Millard, owners, for an area variance at 244 North Avenue to construct a 10 feet by 15 feet entrance porch on the south side of their home with a front setback of 60 feet from the road right of way and this grants relief from Town Zoning schedule 1 which requires a setback of 75 feet. This property is currently zoned Agricultural Conservation (AC). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. The home was built in 1930 and predates current zoning. The porch was built on the side of the home. There is no other reasonable way this benefit could be achieved. There will be no undesirable change in the neighborhood character or to nearby properties. The request is somewhat substantial but the original house was built in 1930 and predates current zoning. There will be no adverse physical or environmental effects, in fact, this new porch will improve ingress and egress into the entrance and create a safe condition for the homeowners and visitors. The alleged difficulty is self-created, but the house was built in 1930, which mitigates this. 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: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

8. KEVIN PARKER – 426 BURRITT ROAD

Application of Kevin Parker, owner, for a use variance at 426 Burritt Road. Applicant is requesting to use the property as a four family dwelling. This property is currently zoned Rural Residential (RR) which allows single family homes.

Chairperson Robillard referred to the August 15, 1968 ZBOA minutes when Mrs. Doreen Schug of Curtis Road, received approval for four apartments at 426 Burritt Road. Art Fritz noted that this building was used as a nursing home prior to Mrs. Schug's purchase of this property.

A **Motion** was made by Dean Snyder to dismiss the application of Kevin Parker, owner, for a use variance at 426 Burritt Road to use the property as a four family dwelling, based on the ZBOA minutes of August 15, 1968, when approval for use as a four family dwelling was approved. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

OTHER

Discussion was held on if the footprint of a structure is the same as what is being improved, is a variance required?

MINUTES OF JUNE 21, 2007

The following changes were recommended: Page 2, line 2, change “was” to “is.” A **Motion** was made by Tim Thomas to approve the ZBOA minutes of June 21, 2007 with the recommended change. Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Tim Thomas; Abstain: Dean Snyder)

ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder and seconded by Tim Thomas to Adjourn the meeting at 9:10 pm. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Respectfully submitted,
Diane Grundon, Recording Secretary