

**TOWN OF PARMA
ZONING BOARD OF APPEALS
DECEMBER 18, 2008**

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

Members Excused: Carm Carmestro (Board Liaison), Mark Kalen (alternate)

Others Present: Jack Barton

Public Present: See attached sheet

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 noted that this is a five-member board and that a quorum of three is required to pass a motion.

TABLED PUBLIC HEARINGS

1. MIGIRDIC COLAKOGLU – 1220 HILTON PARMA CORNERS ROAD

Application of Migirdic Colakoglu, contract vendee, for an area variance at 1220 Hilton Parma Corners Road. Applicant is proposing to operate a motor vehicle repair business which, with the addition that is proposed, will require 46 parking spaces under Town Zoning schedule 2. 19 spaces are proposed for this property. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard recalled that this application was tabled until the January 15, 2009 meeting.

2. MIGIRDIC COLAKOGLU, CONTRACT VENDEE – 1220 HILTON PARMA CORNERS ROAD

Application of Migirdic Colakoglu, contract vendee, for area variances at 1220 Hilton Parma Corners Road. Applicant is proposing a 40' x 66' addition to the existing building with proposed side setbacks of 15.3 feet from the easterly property line and 14.3 feet from the northeasterly property line and is requesting relief from Town Zoning schedule 1 which requires a 20 feet side setback. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard recalled that this application was tabled until the January 15, 2009 meeting.

NEW PUBLIC HEARINGS

3. ROBERT AND JULIE WAGNER – 557 MANITOU ROAD

Application of Robert and Julie Wagner, owners, for area variances at 557 Manitou Road. The applicants have an existing 10 feet by 10 feet accessory storage shed with a zero foot setback from the northerly and westerly property lines and are requesting relief from Town Zoning schedule 1, which requires side and rear property line setbacks of 10 feet. This property is currently zoned High Density Residential (HD).

Robert explained that the existing 10 feet by 10 feet shed was put there 20 years ago when he moved to this property. He purchased the shed in 1989, and it was six years old when he moved it. He reported that none of his neighbors have an issue with this shed, except the Town of Parma because it does not meet the required setbacks. He recalled calling the Building Department at the time he re-located the shed and was told it was okay. He stated that at that time, the zoning was rural residential and it has since changed to high density residential. He listed the following items that he stores in this shed: garden tools, spare tires, lawn spreader, lawn sweeper, flower pots, wheelbarrow, dump cart for his lawnmower, plow for his 4-wheeler, and swimming pool accessories. He noted he has a 3-car garage, with two overhead doors and one walk in door. They park their two cars in this garage, along with two 4-wheelers and trailer, garden tractor, power washer, leaf blower, ladders, a classic car, air compressor, and a storage cabinet for various tools.

Jack Barton reported that if the shed remains in its current location, that code requires any shed within 3 feet of the property line or 6 feet from the main structure be fireproofed. Jack also noted that they were unable to locate a building permit for this shed in the record.

Public Comment:

Jim Quick – 553 Manitou Road: Stated he has lived on the property adjacent to the Wagner's for 18 years. The shed was there when he moved in and is located near his property line. He noted he has two sheds in the same corner. He stated he has no problem with the approval of this variance.

John Frillici – 587 Manitou Road: Stated he also has no problem with this variance.

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. Jack Barton reported 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 Robert and Julie Wagner, owners, for area variances at 557 Manitou Road to have an existing 10 feet by 10 feet accessory storage shed with a zero foot setback from the northerly and westerly property lines and this grants relief from Town Zoning schedule 1, which requires side and rear property line setbacks of 10 feet. This property is currently zoned High Density Residential (HD). This approval with the condition that a satisfactory fire proofing solution be identified and approved by the Building Department as required by the residential building code. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. Based on the age of the shed and where it is located, there could be considerable structural damage to the shed if it were moved. There will be no undesirable change in neighborhood character or to nearby properties. The shed, as stated by the applicant, has been in place for 20 years and the nearby neighbors have stated they have no problem with the shed. The request is substantial but mitigated, to some extent, by the fact that until the land to the rear of the

applicant's property was developed, this need for a variance was not identified. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created. The applicant recalls being given information from the Building Department that perhaps was misinterpreted, and the applicant has substantiated the need for the shed and the larger garage. 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: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

4. GARY AND SUSAN PUTNAM – 1143 HILTON PARMA CORNERS ROAD

Application of Gary and Susan Putnam, owners, for area variances at 1143 Hilton Parma Corners Road. Applicants are proposing to construct a 16 feet by 16 feet deck with a side setback of 2 feet from the northerly property line and are requesting relief from Town Zoning schedule 1, which requires a 10 feet setback. Applicants are also proposing to erect 48 lineal feet of 6 feet high privacy fence along the northerly property line with a setback of 2 feet and are requesting relief from Town Zoning Article 16, subsection 165-128.B.2 which limits the use of this style of fence for the express purpose of enclosing or screening a swimming pool or patio area. This property is currently zoned Agricultural/Conservation (AC).

Susan explained the need for the privacy fence they have started to put up. She stated it started with a 13' x 22' x 4' deep coy pond they installed, in honor of their son who died. They also plan to build a 16' x 16' deck to use next to the pond, and which also hides equipment and filters for the pond. She noted their property is visible from the road and they felt like they had no privacy. She recalled calling the Building Department and asking about putting up a fence, noting she did not mention it would be a privacy fence. She stated she was told the fence was allowed and that ponds did not have restrictions. They had put up 5 of the 6 8-foot long fence panels when they were told they needed a variance. She referred to the sketch of the property provided to the Board, noting that the deck requires a variance for the 2 feet setback. She described the deck, which is at grade level. She also noted the slate patio behind the garage, which is also screened by this fence. She explained that they planned the length of fence to run just past the pond. She reiterated that this provides privacy and her neighbor is pleased with the fence because it screens her dogs from view and has kept them from barking.

Public Comment:

Michael Putnam – 1143 Hilton Parma Corners Road: Stated he is very delighted with the pond and the fence.

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. Jack Barton reported 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 Gary and Susan Putnam, owners, for area variances at 1143 Hilton Parma Corners Road to construct a 16 feet by 16 feet deck with a side setback of 2 feet from the northerly property line and this grants relief from Town Zoning schedule 1, which requires a 10 feet setback. Applicants are also proposing to erect 48 lineal feet of 6 feet high privacy fence along the northerly property line with a setback of 2 feet and this grants relief from Town Zoning Article 16, subsection 165-128.B.2 which limits the use of this style of fence for the express purpose of enclosing or screening a swimming pool or patio area. This property is currently zoned Agricultural/Conservation (AC). This approval with the condition that the fence shall not exceed 50' in length including the fence posts. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant has done a reasonable job at constructing the deck to provide an area to enjoy their pond, which has an emotional attachment. The deck also hides the required supplies and equipment for the pond and pump. The fence provides a shield for the deck and pond and provides privacy from the road. There will be no undesirable change in neighborhood character or to nearby properties. The fence is shielding a patio area, pond and deck and will prevent a "fish bowl" effect. The request is substantial as it relates to the deck, however, not as significant to the fence portion. The request will not have adverse physical or environmental effects. The alleged difficulty is self-created, but this is a somewhat unique situation with a road running next to the house. 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: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

MINUTES OF NOVEMBER 20, 2008

The following changes were recommended: Page 1, it was noted that the motion was missing several sentences. Page 3, Para 6, change "landscape contractor" to "land surveyor." Page 5, change "Gary Passeno" to "Gary Pasano" throughout the page; Para, 2, line 7, change to "...that each team would use the fields for practice two nights a week...". Several typing errors were noted. A **Motion** was made by Stephen Shelley to approve the November 20, 2008 ZBOA meeting minutes with the recommended changes. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

OTHER BUSINESS

2009 ZBOA Meeting Dates: Chairperson Robillard referred to the 2009 ZBOA meeting dates that were given to the Board members to review at the November meeting. It was noted that all the 2009 dates were acceptable.

Patrick Buskey's Resignation: Chairperson Robillard stated she regretfully accepted the resignation of Patrick Buskey. She thanked him for his hard work and diligence as a ZBOA member. She stated that it was with mixed emotions that she wished him well in his future endeavors.

Letter of Appreciation: Chairperson Robillard read a letter from Mr. and Mrs. Arnold, who praised the ZBOA members for their attention to the details which led to their decision with regard to the Greece Cobra Soccer Complex application.

ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder and seconded by Patrick Buskey to Adjourn the meeting at 8:10 p.m. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Respectfully submitted,
Diane Grundon, Recording Secretary