

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
January 19, 2012**

**Members Present:** Veronica Robillard  
Stephen Shelley  
Tim Thomas  
Jim Zollweg

**Members Excused:** Dean Snyder

**Others Present:** Jack Barton

**Public Present:** Greg Sullivan, Kevin Waite, Karen Waite, Richard Mosure, Frank Santonastaso, Arda Davey, Anthony Stothard, Ben Mattern, Steve Aprilano, and Gary Comardo

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 explained that a quorum of three is required to pass a motion.

**PUBLIC HEARINGS**

**1. GREG STAHL PROPERTIES – 4621 RIDGE ROAD WEST**

The application of Greg Stahl Properties, owners, for modification of their Special Permit at 4621 Ridge Road West. The applicants are requesting to increase the number of parking spaces for vehicles to 200. The current Special Permit limits the number of display parking spaces to 140. This property is currently zoned Highway Commercial (HC) which allows the display and sale of motor vehicles with a Special Permit.

Jack read an email from John Love, Websmart Auto Inc. asking that this matter be tabled until the February meeting due to the inability for them to notify the neighbors in a timely manner for the January Meeting.

A **Motion** was made by Stephen Shelley to table without prejudice the application of Greg Stahl Properties, owners, for modification of the Special Permit at 4621 Ridge Road West to increase the number of parking spaces for vehicles to 200 to the February 2012 ZBOA meeting to allow the applicant additional time to provide the required notifications.

Seconded by Jim Zollweg. **Motion carried (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

**2. FRANK AND LUIGI SANTONASTASO – 5070 RIDGE ROAD WEST**

The application of Frank and Luigi Santonastaso, owners, for modification of their Special Permit at 5070 Ridge Road West. The applicants are proposing to increase the number of parking spaces for display vehicles from 160 to 315. This property is currently zoned Highway Commercial (HC) which allows the display and sale of motor vehicles with a Special Permit.

Jack read an email from Adam E. Freeman, Senior Design Engineer, requesting that this matter be tabled until the February meeting.

Mr. Santonastaso was also present at the meeting and there was discussion about notifications not being made in the required time period for the January meeting. It was noted that notifications

were sent out a day late. There was further discussion that both the Planning Board and Zoning Board hearings would be pushed back 30 days.

A **Motion** was made by Tim Thomas to table without prejudice the application of Frank and Luigi Santonastaso, owners, for modification of the Special Permit at 5070 Ridge Road West to increase the number of parking spaces for vehicles to 315 to the February 2012 ZBOA meeting to allow the applicant additional time to provide the required notifications thereby satisfying the notification requirements.

Seconded by Jim Zollweg. **Motion carried (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

### **3. RICHARD MOSURE AND MICHELLE FULLER – 1056 PECK ROAD**

The application of Richard Mosure and Michelle Fuller, owners, for an area variance at 1056 Peck Road. The applicants are proposing to construct an accessory storage building in their rear yard with a side setback of ten (10) feet from the easterly property line. The applicants are requesting relief from Town Zoning Schedule 1 which requires a minimum setback of 25 feet. This property is currently zoned Agricultural/Conservation (AC).

Richard Mosure owner of 1056 Peck Road explained he is requesting the variance because other structures and trees on the property prohibit different placement. There was discussion about what would prevent the placement more to the west and Mr. Mosure explained that there is an existing shed and large trees on the property and that the trees would have to be cut down. The house was built in 1961 and at that time was zoned R-1. Setback at that time was 10 feet. In 1998 the setback changed to 25 feet. Under the current zoning code it allows for a reduction method for lots that are less than 300 feet wide. That reduction method and formula can only be used if the lot met the standard prior to 1998. If the property were 100 feet wide it would meet the standard but because this lot is 99.78 feet wide in the back the reduction method cannot be used and the structure is subject to the current code. The lot size is .8 acres and 350 feet deep. There was discussion about the use and enjoyment of the property. Mr. Mosure explained that he has young kids that play in the backyard and that would be hindered if there was a building in the middle of the yard.

**Public Comment:** None.

The public hearing was closed.

**Board Discussion:** Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Richard Mosure and Michelle Fuller, owners, for an area variance at 1056 Peck Road to construct an accessory building in their rear yard with a side setback of ten feet from the easterly property line. This grants relief from Town Zoning Schedule 1 which requires a minimum set back of 25 feet. 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 are 2 significant factors that support that 1. The home was built in 1961 and at that time 10 foot setback was required which has subsequently changed with a newer code to replace that as a result the applicant is unable to take advantage of the reduction method as explained by Mr. Barton relevant to this kind of a lot and falls 2.64 inches short of not meeting the variance which is an insignificant number in this kind of an application. 2.

To place the structure in a place where it would be compliant would mean the removal of some mature trees in the back yard thus reducing the aesthetic pleasure of the rear yard and the natural setting that it is in.

- There will be no undesirable change in neighborhood character or to nearby properties. The lot depth is 350 feet deep and the structure being located as far as reasonably can be into the northeast corner of the yard taking into the account the variance that is being asked for.
- The request is substantial in respect to what our code requires however the feeling is that the two items mentioned prior mitigate that substantial issue.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is somewhat self-created although the belief is that the original lot layout, the time the house was built and the change in the zoning code mitigate that effect. Therefore, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Jim Zollweg. **Motion carried (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

#### **4. BENJAMIN MATTERN – 560 HAMLIN PARMA TOWNLINER ROAD**

The application of Benjamin Mattern, owner, for area variance and an expansion of a non-conforming structure at 560 Hamlin Parma Townline Road. The applicant is proposing a two story addition to the rear of the existing home. The applicant is requesting relief from Town Zoning Schedule 1 which requires a front setback of 75 feet for dwellings. The existing home has a front setback of 31 feet and the addition will be set back 55 feet from the road right of way. This property is currently zoned Medium Density Residential (MD).

Ben Mattern owner of 560 Hamlin Parma Townline Road explained he is looking to add an addition of the back of the house and that the addition would be the furthest away from the set back that it could be. The other side of the house has a driveway, a patio and some good size trees. This addition would be used for additional living space. It would consist of an entryway and study in the lower level and 2 bedrooms and a hall way on the second floor. It would add an additional 800 square feet to the residence. The house was built in 1880's and they have owned it for about 4 years.

**Public Comment:** None.

The public hearing was closed.

**Board Discussion:** Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR.

There was a letter read from the Planning Board. The Planning Board reviewed the proposal at their January 5, 2012 meeting and offered comments. The project is proposing to increase the living space from just under 1200 square feet, based on the assessment records to 1996 square feet. The project seems unique in that the addition is to the rear of the home and yet it is within the front setback to the right-of-way. The Board in their discussion did note that the Instrument Survey Map shows a well in proximity to the rear wall of the addition. The Monroe County Health Department should be contacted regarding any regulations that may apply. The continued use of the property as residential does coincide with the Town's Master Plan. The Planning Board did not identify any wetlands on the site.

There was discussion about the well being abandoned and that Monroe County Water Authority has inspected the well and Mr. Mattern has all of the documentation to show the building department.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Benjamin Mattern, owner, for area variances at 560 Hamlin Parma Townline Road to add a two-story addition to the rear of the existing home. This grants relief from Town Zoning Schedule 1 which requires a set back of 75 feet for dwellings. This property is currently zoned Medium Density Residential (MD). In making the determination to approve:

- I don't believe the benefit can be achieved by other means feasible to the applicant. The original home was built in the 1890's before current zoning and road widths were not what they are today. There are other homes in that area that sit closer to the road.
- There will be no undesirable change in neighborhood character or to nearby properties. The new structure sits behind the home and is being built to fit in with the character of the home.
- The request is not substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created due to the age and proximity to the road when the home was built; 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 (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

## 5. GREGORY SULLIVAN – 300 BURRITT ROAD

The application of Gregory Sullivan, owner, for three area variances at 300 Burritt Road. The applicant is proposing to construct a 2,016 square foot accessory storage building with a wall height of 16 feet in the front and side yard. The applicant is requesting relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the area of accessory structures to 1,500 square feet, Article 10, subsection 165-82.C.2 which limits the wall height of the structure to 12 feet and subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Mr. Sullivan, owner, of 300 Burritt Road distributed a packet to the board with floor plan, pictures, septic layout and letter from neighbors supporting his position. He explained that this structure will house cars, trailer, motor home, lawnmower and tractor as well as being used as a shed. He currently is paying for offsite storage for the cars, trailer and motor home. Mr. Sullivan explained that he is requesting 16 foot walls to accommodate 14 foot doors since his motor home is 12 plus feet high. The backyard floods at times during the year. This will only be used for personal use and not for a business.

**Board Discussion:** Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR.

### **Public Comment:**

Steve Aprilano residing at 304 Burritt Road stated that he is a neighbor directly to the west and that there is enough of a natural buffer that the structure would not affect his property. He explained that he has lived next door for a couple of years and that the backyard does indeed flood and that he is ok with the structure being there.

Arda Davey residing at 146 Burritt Road wanted explanation on which side is the front of the house. Jack explained that everything between Burritt and the South side of the house is the front yard. Aesthetically the front faces the back yard. Ms. Davey has concerns about the amount of houses on Burritt Road that are set far back from the road and have large structures on the property. She is wondering how this will change the appearance of the road and if it will impact the value of the other houses. Jack Barton explained that the North side of the road has a minimum lot requirement of 2 acres. There are several smaller lots because of the different zoning requirements prior to 1998. The zoning also sets a maximum square footage for accessory structures and does not differentiate between smaller or larger lots.

Ms. Robillard wondered about the possibility of building a smaller structure than 2,016 square feet. Mr. Sullivan thought that would mean some of his belongings would still have to be stored off the premises. Mr. Thomas believed the size is justified but he is concerned with the placement in the front yard and understands that there is natural vegetation and flooding issues in the back, but he would like to see it more in line with the house. Ms. Robillard asked if he had explored other locations on the property. Mr. Sullivan explained that to push it back to the Northwest corner he would need to raise the elevation of the corner approximately 8 feet.

Peter Youchzee of 315 Burritt Road thought a precast concrete slab could be put in the back though it would be more costly and then there would be a concrete floor.

The public hearing was closed.

Mr. Thomas felt that this was not a structure that would be accessed on a daily basis, with exception of the lawnmower, and would like to have further information before making a determination. He would like the applicant to explore other locations, the cost to move the structure inline with the home and/or downsizing the structure. He feels that every effort should be made to not put these structures in the front yard. He felt that the board should give the applicant some very specific instructions of what we are going to ask the applicant what to do.

Mr. Shelley stated that there have been similar circumstances in the past where an applicant looked at other options and figured out a way to move his structure back.

Ms. Robillard is hesitant to approve without further information and would hate to deny it if there was a way to come to a compromise.

There was further discussion with Mr. Sullivan to clarify what the board is looking for and when Mr. Sullivan thought he would be ready to come to the board again. Mr. Sullivan felt that he could move the structure parallel with the front porch but he would like to keep the size and height. There are also concerns with encroaching onto the creek bed. Mr. Barton explained that there is a minimum setback of 25 feet from a stream bank but that setback does not apply to an intermittent or overflow creek per zoning book Section 165-52. Mr. Barton feels that this would not apply to this property, but that the applicant would have to be comfortable with the water issues. The board felt that they were being speculative and they would like some professional measurements from an excavator and a new map with measurements. There was discussion if this would be able to be done before the next meeting or if the applicant would need additional time. The applicant felt he could have this done in time for the February 2012 meeting date.

A **Motion** was made by Jim Zollweg to table without prejudice the application of Gregory Sullivan, owner, for 3 area variances at 300 Burritt Road to construct a 2,016 square feet accessory storage building with a wall height of 16 feet in the front and side yard to the February 2012 ZBOA meeting to allow the applicant time to explore alternatives for placement for the storage building so that it does not encroach upon the front yard of the home, cost comparison to align with the house to enable the board to make a proper determination. Additionally, some

options to erect a smaller structure closer to the 1500 square feet as listed in the code making the application more attractive to the board. The board would also like a clear idea of what the changes of the elevation are as you move back towards the pond, whether it is minor elevation changes or prohibitive elevation changes.

Seconded by Tim Thomas. **Motion carried (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

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

Application was received from Greg Stahl Properties, owner, for renewal of a Special Permit at 4621 Ridge Road West to construct a sales and showroom building and expand the area of outside display vehicles east of existing display area. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

Jack Barton read a letter from Arthur J. Fritz, Zoning Enforcement Officer, that a fire and safety inspection was completed on December 28, 2011 and only identified minor safety issues that will be brought into compliance within 30 days and there were no complaints on file.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Greg Stahl, owner, for renewal of the Special Permit at 4621 Ridge Road West, with the following conditions set forth that apply to properties, the eastern portion of 4615 Ridge Road West, now known as 4621, and the western portion of 4621 Ridge Road West, as follow:

- No more than 140 display spaces total
- All display areas will be paved
- No repairs or storage of junk cars
- No outside speakers
- No on-street parking
- Lighting will be directed away from Ridge Road West and neighboring properties.
- Hours of operation: Monday through Friday, 9am – 9pm, Saturday, 9am to 5pm, no Sunday hours
- For a period of one year, to be renewable 12/2012

Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg)

## **MINUTES OF DECEMBER 15, 2011**

The ZBOA minutes of December 15, 2011 were reviewed and the following recommended changes were made: Page 1, Para 2, line 10 change to “The new location will put it farther west and on the front lot line”; page 1, Para 2, line 13, change to “Jack Barton stated that the Town Code addresses this”; Page 2, Para 2, line 1, change to “Submitted a letter stating several concerns he has”; Page 4, Para 2, line 7 “For example if the business is located on Ridge Road.” A **Motion** was made Tim Thomas to approve the December 15, 2011 minutes with the recommended changes. Seconded by Stephen Shelley **Motion carried (3-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas; Abstain: Jim Zollweg).

## **OTHER BUSINESS**

**Process for filling the ZBOA vacancy created by the resignation of Tina Brown:** There was discussion about the process for filling the vacancy created by the resignation of Tina Brown. There is an ad going in the Suburban News and has been up on the website advertising the

position. There have been four applications received. Mr. Barton explained that he would like a representative from the ZBOA at the interviews. Veronica Robillard stated that she could attend the interview process and if she is unable to attend it was determined that Tim Thomas would sit in on those interviews.

**1608 Hilton Parma Corners Road:** The owner submitted plans to build a home. It was explained that zoning requires a garage also. After some discussion the owner submitted separate plans for a detached garage and Building Permits were issued for the home and the detached garage. The house was constructed but the garage was not. The owner applied to the ZBOA in 2005 for relief from Town Zoning that required a garage. The owner's application was denied. Since then Jack has both sent letters and had conversations with the owner on the requirement of constructing a garage. In April 2011 the owner obtained a Building Permit for a detached garage. The Building Permit expired October 2011 because the project was not started. The Town has filed court papers and the owner will be before the court on February 9, 2012. The court asked the owner to work with the Town in this matter. The owner has requested additional time to construct the garage.

The Board felt that the ZBOA decision was made and the Town needs to follow through and enforce that decision. There are legal steps in place if the owner wants recourse. By not enforcing the decision it diminishes the Zoning Board of Appeals authority.

#### ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Jim Zollweg, to adjourn the meeting at 9:27 p.m. **Motion carried (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster, Recording Secretary