

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
June 21, 2012**

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

**Others Present:** Jack Barton

**Public Present:** Bill Chatterson, Gloria Chatterson, John M. Wolfe, Terry Inscho, Violet Inscho, Jean Ranalletti, Roy Papky, Paul M. Lear, Donna LaForce, Richard LaForce, Marial Ophardt, Raymond Saltreli, Rich Orczyk, Beth LaForce Sortino, Gary Comardo.

The meeting was called to Order by Chairperson Robillard at 7:01 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.

**TABLED PUBLIC HEARINGS**

**1. MARIAL OPHARDT – 451 PARMA CENTER ROAD**

The application of Marial Ophardt, owner, for a use variance at 451 Parma Center Road. The owner is requesting to restore the property use to two-family. The property has been vacant for over one year and has lost its preexisting nonconforming status in accordance with Town Zoning Article 12, subsection 165-92 titled “Abandonment”, which states in part that whenever a nonconforming use of land, premises, building or structure has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished. This property is currently zoned Agricultural/Conservation (AC) which limits Permitted Principal uses to one single family dwelling and customary agricultural operations.

Rich Orczyk, Realtor spoke on the behalf of the owner, who is also present. He explained that Marial Ophardt held the mortgage for the premises, which eventually was defaulted on and then the premises was vacated. He explained that it was a long process for her to get the property back from the owners. During that time, the property lost its status as a two-family. Ms. Ophardt wants to restore the property and then be able to sell it. He went on to explain the expenses of the owner:

Mortgage Due	\$69,000.00
Property Taxes Paid	\$ 11437.52
Attorney and Recording Fees	\$ 1,080.00
Payout to one owner	<u>\$ 5,000.00</u>
Total Expenses	\$86,517.52

Mr. Orczyk further explained that there are four possible sale options for this property:

1. Demolish both houses on the premises and sell the lot. Using the comps in the area, the value would be approximately \$17,000.00. After the demolishing costs, the applicant would be negative \$2,860. If there is asbestos in those houses the costs would be more.
2. Demolishing the rear house and selling the front house. The demolishing costs would be \$10,000. There would be less issues with asbestos if they demolished the rear house. The front house is a 1 bedroom home. Mr. Orczyk felt that the house could yield between \$35,000 (low end) and \$70,000 (high end after renovations). The proceeds from that would be approximately \$25,730, not including asbestos abatement.
3. Demolishing the front house and selling the rear house. Mr. Orczyk felt that this house would be harder to sell because of the placement of the house, there would be no back yard. Using comps in the area Mr. Orczyk felt it could sell for approximately \$60,000 after renovations. The net proceeds of this would be about \$22,000.

4. Restore the Zoning as a two-family property and sell. It was explained that the approximate cost to restore the property would be \$43,225, \$27,000 for the front house and \$12,000 for the rear house. Mr. Orczyk felt that after those repairs the house could sell for between \$88,000 and \$100,000, closer to \$100,000.

Mr. Orczyk felt that the only way the applicant can recoup her money is to restore and sell the property as a two-family. Veronica Robillard read 165-92 "Abandonment" and wants to hear why the applicant feels the property should not remain a one-family and made sure that the applicant understood the Town Code provision. Mr. Orczyk explained that it is cost prohibitive to repair and sell as a one-family or vacant lot and that this is not self-imposed. She lented the money to the owners in good faith. One of the owners went into the military and the other owner was incarcerated. It then was a long process to get the property into her name and then the property lost its two-family use. Tim Thomas wanted to know if the two-family use was restored would the applicant sell it as is and then the buyer would renovate it. Mr. Orczyk stated that they do have a buyer that is interested in purchasing but they are waiting to see if the zoning gets restored to a two-family. Veronica Robillard clarified that her understanding is that Ms. Ophardt is not intending to restore the property but to sell the premises as a two-family and stated that the risk for the Town is that they have no commitment or plan that the buyer is going to restore the property. Veronica Robillard wanted to know if there was proof of the contingency that the property would be restored. Mr. Orczyk stated that the buyer is here. Beth Sortino introduced herself as the potential buyer. Tim Thomas wanted to hear the plans, if it will remain a rental or be owner occupied. Beth Sortino responded that it will be a rental. Stephen Shelley asked Jack, whether owner occupied or not, what it will take to get it up to code. Mr. Orczyk stated that the estimates to repair include putting in hard wired smoke and carbon monoxide detectors, exit windows in the front house basement; their intention is to bring the property up to code. Veronica Robillard wanted to know the square footage. The front house is approx. 732 square feet, the rear approx. 800 square feet. The parcel lot size is .5 acres and 109x198.

Dean Snyder stated that he is disappointed that the financial analysis wasn't written by an accountant or an attorney because he doesn't think it fit the criteria. He explained what the board is trying to do is see whether or not the applicant can realize a reasonable return on the investment and weigh that against preserving and protecting the character of the neighborhood. As it stands right now it's a blithe, it looks horrible and has really reduced the viability of that neighborhood and has had a significant impact. The board asked the applicant to go back and show that the owner cannot realize a reasonable return and he does not feel that was done. Looking at Option #4, restoring as a two family, he does not feel that can be done with a clear conscience after hearing what has gone on. Option #2, it says the current value of the front home is \$27,000 and does go through and gives the demolition costs of the rear home, the leveling of the lot and seeding and the asbestos testing as costs associated with making it a single family home. But what it doesn't show is what the front house is worth after renovations. What should be showing is what the costs are to bring it up to code, this is what it will be worth after and this is what we can rent it for. For example: if it costs \$10,000 to repair and then it is worth \$70,000, then that sounds like a good deal but if you put in \$10,000 and it is only worth \$10,000 then it is not such a good deal. And he is not seeing anything that shows what the anticipated worth of the house is. Dean Snyder feels that is what people in the audience want to hear. The job of the board is to make sure that this gets repaired. He does not see in any of the cases that the reasonable return has been shown and that is why he thought an accountant or an attorney would be involved. There was further discussion over numbers and the cost to fix the property. Tim Thomas clarified that the current owner is not going to repair it; it would be the potential buyer. Tim Thomas feels the worst case scenario is if they do not approve the use variance then it would remain a one-family use and in his mind that reduces the risk by 50% of continued problems. Tim Thomas feels that in the code "shall not" is pretty strong and not reversible unless extremely compelling evidence. Dean Snyder feels that is why the applicant is coming to the board. Dean Snyder read the part of the code stating "No such use variance shall be granted by the Zoning Board of Appeals without showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate the following to the Zoning Board of Appeals for the particular district in which the property is located". The first permitted use would be a vacant lot. The value of the vacant lot would be \$17,000 after demolition. The next permitted use would be single-family residence. One way to do that would be to demolish everything on the premises and build a nice new house in the middle of it. Dean Snyder explained that the board wanted to see in the analysis the cost of demolishing and building as one of the

options to see what the value would be after. There would be a certain value to the house when you are done and that would dictate how much rent you could receive. He asked Mr. Orczyk how much rent could be received if they fix either one of the houses and rented out, or if they demolished the houses and put up a brand new house, which would have more expenses involved but when you were done, you would have a much nicer house and could rent it for a higher amount. Those are two things in particular that Dean Snyder was looking for in the packet and did not see. Dean Snyder explained that the current numbers are not as important as the final numbers. The board needs the financial numbers to show the financial hardship. Mr. Orczyk stated that in this market a one bedroom house could rent for \$700 to \$800 per month and a two bedroom \$850 to \$900 per month. After discussing numbers it was determined that Option #2 would have a net return of approx. \$20,000, Option #3 would have a net return of approx. \$28,000, and Option #4 would have an approx. \$20,000 net return after deducting the \$40,000 that it takes to renovate. Dean Snyder explained that the financial numbers the board needs are not included in the information.

Tim Thomas asked if the Buyer is being financed by a bank. The applicant said it would be private financing.

**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 and no further review is required.

Dean Snyder read #3 of the four criteria “that the requested use variance, if granted, will not alter the essential character of the neighborhood”. His interpretation of that is that if this is granted, compared to not, would a two- family property compared to a one-family change the character of the neighborhood. It was explained that each and every criteria has to be met to approve.

**Public Comment:**

Violet Inscho, 448 Parma Center Road, stated she lives across the street from this property and that the property has deteriorated over the last 13 years. She wants to remind everyone that there is a third building on the property. She feels that the value of her house has decreased and that the property is too small for two families with dogs and children to be living on. There have been raids and nothing but problems on that property for the last 13 years. The grass is still not being maintained and they have had to lodge complaints with the Town. She stated that if this were allowed to be a two-family then it would remain rental property and she would like to see a single use family there. She feels that the owner has benefitted from this property on her taxes by not being able to rent this.

Dean Snyder commented that he can't see, even if some of the expenses were written off, that anything associated with this property would remotely benefit the applicant ever. If you look at the big picture of what she has invested in it and what the value is right now, this has been horrendous for her.

Veronica Robillard asked if the lawn has been getting mowed, especially knowing that you were coming in front of the board to ask for this. Ms. Ophardt responded that they hired a company and that company was not doing it but that has been taken care of and now it is being maintained. Veronica Robillard stated that there is a greater sense of abandonment when the lawn is not being maintained.

John Wolfe, 461 Parma Center Road, stated that he read the minutes from the last meeting and provided the board pictures of the property showing the lawn not being maintained as recently as Memorial Day weekend. He feels that the applicant is not invested in the neighborhood and not putting in the effort. He has a bill for pests because of critters that have recently become a problem on his property since this properties decline.

Veronica Robillard explained that the board wants to hear from the neighbors to get the effect of the property on them and the board understands that it is emotional but clarified that there cannot be a dialogue between the members of the audience.

Bill Chatterson, 459 Parma Center Road, feels that the front house should be torn down for safety reasons and that it is not worth saving. There is a door that is currently now unsecured. Mr. Orczyk explained that the basement door was kicked in.

Tim Thomas clarified that the board has 2 options: Either to table or to make a motion. Dean Snyder agrees with the way Chairperson Robillard is going through it by the criteria. First criteria is questionable and there is no way to know whether additional time will help them to prepare that. Second criteria has been satisfied. Third criteria; he has a difficult time understanding having a two-family on this relatively small lot with the houses located in unusual positions that it would not alter the character of the neighborhood. Fourth criteria; feels like the applicant made some decisions that a bank would not have made with good intentions and it did not pan out, unfortunately that led to the hardship that was self-created. He feels that unless the board is comfortable with three and four of the criteria, he sees no reason to push this out to look further into criteria number one, if they feel three and four may be able to be met then he thinks the applicant should be able to provide additional information on the first.

Tim Thomas feels that number three and four of the criteria will not be able to be met and feels the board should go ahead with a motion.

Veronica Robillard asked the applicant the timeline of the circumstances of decline. The applicant explained that the property was purchased by her son and friend in February 2005. They only did work on the inside of the property because they heard if they fixed the outside the value of the property would increase. In 2006 her son joined the military and the other owner thought he could get a renter and continued to make payments but multiple people lived there. That owner then was in a car accident and was on pain meds and spiraled down from there until he landed in jail. She was not allowed to go back to the house even though she held the mortgage. She was communicating with that owner and meanwhile the house was ransacked and destroyed, things stolen. In December 2011 she was in touch with Jack and got an attorney involved to learn the process. They did try and clean and throw out stuff, her goal is to make it better now. There is currently no water or electric which makes it hard to maintain and it keeps getting broken into. No improvements have been made because she is not sure what house they should improve on. There was evidence of cats and mice on the premises. When the one owner was released from jail it took months to get his stuff out. When her son got out of the army, he did not move back to the property. Mr. Orczyk does not feel this is self-created, he feels this was created by the two owners. As soon as they knew the grass was not being maintained they took care of that. This has been used as a two-family for at least 13 years so he doesn't know what the circumstances were before 2005. There have been multiple people who lived in the front house that were not paying tenants. Tim Thomas clarified that she was only a mortgage holder and could not make decisions or have say. Ms. Ophardt said she had little say over who lived there.

Public Hearing Closed.

Tim Thomas cannot support tabling this matter because of criteria numbers one, three and four. Dean Snyder clarified that this is a single-family now and to approve it as a two-family would have a detrimental effect on the neighborhood even though it was a two-family in the past.

Veronica Robillard stated that the common understanding is that the preexisting nonconforming use has gone beyond its grace period and therefore they no longer have any entitlement for the two-family use. Now looking solely at this as a new application, the use cannot be extended. So the criteria needs to be looked at very carefully.

Stephen Shelley said that this property is not large enough to be agricultural so this can only be looked at as a single-family use.

A **Motion** was made by Tim Thomas to deny the application of Marial Ophardt, owner, for a use variance at 451 Parma Center Road. The owner is requesting to restore the property use to two-family. The property has been vacant for over one year and has lost its preexisting nonconforming status in accordance with Town Zoning Article 12, subsection 165-92 titled "Abandonment", which states in part that whenever a nonconforming use of land, premises, building or structure has been discontinued for a period of one year, such nonconforming use

shall not thereafter be reestablished. This property is currently zoned Agricultural/Conservation (AC) which limits Permitted Principal uses to one single family dwelling and customary agricultural operations. This premises could only support a single family dwelling. It is not an adequate property to support any agricultural operations. Using the Use Variance criteria:

1. **Cannot realize a reasonable return.** Although the applicant and the applicant's Real Estate representative provided some financial data it did not meet what the board required. Giving the applicant more time to provide additional financial information would not substantially change or impact the reasonable return criteria.
2. **Alleged hardship is unique and does not apply to substantial portion of district or neighborhood.** Affirmed. This is a very unique property in the Town of Parma.
3. **Requested variance will not alter essential character of the neighborhood.** This would and has had a significant impact to the quality of life, property and home values as well as with the safety and enjoyment of the neighborhood and its residents. The property has had a long history of issues over the years and to allow a two family home to continue increases the risk for the situation to continue. denying this application this will mitigate some of these issues.
4. **Alleged hardship has not been self-created.** The hardship is partially self-created although the current owner was technically only the mortgage holder there has been some evidence shared with the board that she did have some influence and involvement during different times throughout the years. When the relationship with one of the property owners deteriorated some of these issues were compounded.

Pursuant to 165-20.C.1. The Zoning Board of Appeals in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Seconded by Dean Snyder. **Motion unanimously carried to Deny (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

Chairperson Robillard polled the Board for their reasons to deny:

**Tim Thomas:** My Motion stands for my denial with the amendments made by Dr. Snyder.

**Stephen Shelley:** Based on the rules we have to abide by, all four criteria need to be met. While he can accept criteria #1 and #2, criteria #3 keeps him from approving the application. There are 20 or 30 houses in this area with only two multi-family houses. He feels that multi-family housing is going in the wrong direction for this neighborhood. Criteria #4, Mr. Shelley feels it is mostly not self-created by the applicant.

**Jim Zollweg:** Criteria # 3, because of the principal of abandonment in the code, the property has to currently be viewed as it stands today as a one-family. The applicant is asking to change it to a two-family. The neighborhood character is a group of mostly owner occupied single-family homes. To change this is risky as indicated by the history of the property which does not match well with the surrounding properties.

**Dean Snyder:** Will base his denial on each of the four criteria. #1. Mr. Snyder does not feel that competent financial evidence was presented, it is questionable whether it could have been, but unfortunately the values of the property after being repaired were not factored into the return on investment. #2. Criteria met without any issue. #3. This property right now is approved for single-family, in order to grant that change to the zoning, it would have an effect on the neighboring properties. Even though one of them is a two-family, my understanding is that it is owned by family members and that makes it easier for those renters to coexist. It is too small of a property as a two-family rental with very limited yard and a large building taking up a portion of that property, it really does not leave a sufficient space to have a yard that kids and pets can enjoy. Because of that I think granting this request would have a significant effect on the neighborhood. #4. Don't believe they have completely met this criteria. The issues that came up were beyond the applicant's ability to control them. The applicant did make some unwise decisions in allowing this mortgage to be taken by these two individuals and she assumed some kind of risk with that. Not to say that she should not have done that and helped out these individuals but unfortunately it did not work out.

**Veronica Robillard:** I believe the motion details the board's study of the request and granting this variance would impact the character of the neighborhood. The neighbors showed evidence and concerns regarding the two-family use of this property. These issues bear significant impact regarding concerns about the quality of life, property values and overall welfare and character of the neighborhood. Hence a denial is the appropriate decision for the board to make.

## NEW BUSINESS

### 2. ROY PAPKEY – 69 DEAN ROAD

The application of Roy Papkey, owner, for three area variances at 69 Dean Road. The applicant is requesting relief of setback requirements to the southerly property line for the following structures: a six feet high privacy fence for the pool enclosure with a side setback of 4.3 feet, a covered storage area with a side setback of 4.3 feet and a garage addition with a side setback of nine feet. The applicant is requesting relief from Town Zoning Article 16, subsection 165-128.B.2 which states in part that closed fences up to a height of six feet may be permitted for the express purpose of enclosing or screening a swimming pool or patio area. Such privacy structures shall be subject to front, side and rear setback requirements of the zoning district and schedule 1 which requires a minimum setback of ten feet for these structures. This property is currently zoned Rural Residential (RR).

Roy Papkey, owner, stated that the previous owner applied twice for these variances but never followed through and obtained the permits or made the corrections and since then sold the property to Mr. Papkey, who would like to fix the fence. Currently the fence is not in compliance. The set back is ok but it does not meet the code as a barrier to the pool. Once the fence is turned around it will comply. There are not any new factors with this application.

**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 and no further review is required.

**Public Comment:** Paul Mclean, 73 Dean Road, stated he lives on the south side of this property and he has no objections with the three variances.

Public Hearing Closed.

A **Motion** was made by Dean Snyder to approve the application of Roy Papkey, owner, for three area variances at 69 Dean Road. This grants relief of setback requirements to the southerly property line for the following existing structures: (1) A privacy fence for the pool enclosure with a side setback of 4.3 feet; (2) A covered storage area with a side setback of 4.3 feet; and (3) A garage addition with a side setback of 9 feet. This also grants relief from Town Zoning Article 16, subsection 165-128.B.2 which states in part that privacy fences are for the express purpose of enclosing or screening a pool or patio area and schedule 1 which requires a minimum side setback of 10 feet for privacy fences and all structures. This property is currently zoned Rural Residential (RR). I recommend the following be approved:

1. A privacy fence for the pool enclosure with a side setback from the southerly property line of 4.3 feet. The neighbor immediately to the south is present and has no issue with this provision. In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. Although it would be possible to move that portion of the fence into compliance, it would require elimination of existing shrubbery and a concrete patio area around the pool. That portion of the fence provides privacy from the neighbors. It is substantial. There will be no adverse physical or environment effects. The alleged difficulty is not self-created because it was existing when the applicant purchased the property. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

2. A covered storage area with a side setback from the southerly property line of 4.3 feet. The benefit cannot be achieved by other means feasible to the applicant. The storage area could be located in another area of the property, but because of the existing privacy fence, this covered storage area causes no adverse effect because it is hidden by the 6 feet high privacy fence. It is substantial. There will be no undesirable change in the neighborhood character or to nearby properties because the storage area is contained in the 6 feet high privacy fence. There will be no adverse physical or environmental impact. The difficulty is not self-created because it was existing when the when the applicant purchased the property. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

3. A bump out of the garage with a side setback from the southerly property line of 9 feet. In making this determination to approve, the benefit cannot be easily achieved by the applicant. There will be no undesirable change in the neighborhood character or to nearby properties. The request is not substantial. This is a 1 foot variance and from neighboring properties it would be difficult to see the difference between a 9 feet and 10 feet setback. There will be no adverse physical or environmental effects. The difficulty is not self-created because it was existing when the applicant purchased the property. 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 (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

### 3. MARK NOTO – 4968 RIDGE ROAD WEST

The application of Mark Noto, owner, for an area variance at 4968 Ridge Road West. The applicant obtained a Building Permit for a free standing sign and located the sign five feet from the road right of way. The applicant is requesting relief from Town Zoning Article 14, subsection 165-111.D which states in part that all free standing signs shall be set back a minimum of 15 feet from all lot lines. This property is currently zoned General Commercial (GC).

Chairperson Robillard read an email from Mr. Noto asking to have this matter tabled to the next meeting to allow him time to send out notifications as he was on vacation when the last notifications were due.

A **Motion** was made by Tim Thomas to table the application of Mark Noto, owner, for an area variance at 4968 Ridge Road West, for a free standing sign to the July 2012 meeting without prejudice at his request to allow notifications to be sent out in a timely manner.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

### 4. RAYMOND SALTRELLI – 49 MARJORIE LANE

The application of Raymond Saltrelli, owner, for an area variance at 49 Marjorie Lane. The owner has placed an accessory storage shed in the side yard and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is a corner lot and by definition has two front yards, two side yards and no rear yard. This property is currently zoned High Density Residential (HD).

Ray Saltrelli, owner, explained that the shed will be moved inside his property line to the left of the catch basin closer to the house, when the shed was delivered and he took out the survey map it was discovered that his property does not go all the way to the cornfield. The shed will sit 10 feet off of the property lines. Jack Barton stated that that would be ok for the setbacks.

**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 and no further review is required.

**Public Comment:** None. Public Hearing Closed.

A **Motion** was made by Dean Snyder to approve the application of Raymond Saltrelli, owner, for an area variance at 49 Marjorie Lane to place an accessory storage shed in the side yard and to grant relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is a corner lot and by definition has two front yards, two side yards and no rear yard.

In making this determination:

- I don't believe the benefit can be achieved by other means feasible to the applicant; there are no such other options available to the applicant.
- There will be no undesirable change in neighborhood character or to nearby properties. This is a somewhat unique lot in the Town but not in this particular neighborhood in that it's on a corner and there is no opportunity for the applicant to satisfy the code. The applicant has a proposed location which minimizes the effect on other properties and it is an appropriate place to put the shed.
- The request is not substantial because there is no rear yard available.
- There will be no adverse physical or environmental effects. Several other properties in this area have sheds similarly located relative to the home and neighboring properties.
- The alleged difficulty is not self-created; by definition, there is no opportunity for this applicant to place the shed in the rear yard as required since there is no rear yard. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

## 5. RICHARD AND LORI SALTON – 562 HAMLIN PARMA TOWN LINE ROAD

The application of Richard and Lori Salton, owners, for area variances at 562 Hamlin Parma Town Line Road. Applicants are proposing to construct an accessory storage shed in their front yard with a front setback of five feet from the westerly property line and are requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all accessory buildings shall be located in the rear yard and schedule 1 which requires a front setback of 75 feet. This property is currently zoned Medium Density Residential (MD).

Rick Saltan, owner, explained that the house was built in December 2009. The front of the house is technically the side of the house. The property is in a mini development of four houses. The west face side of the house is considered the front. In order to put the shed in the back yard, it would still be classified as the side and it would be close to a wetlands area. The further the applicant goes in will put him closer to or into the wetlands area/flood plain.

Veronica Robillard wondered why 5 feet instead of 10 feet. The applicant answered that he believed the property line was different and that 10 feet setback would work as well and would also miss the wetland area. There was further discussion among the board as to an acceptable placement for the shed that is acceptable to both the applicant and the board.

**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 and no further review is required.

**Public Comment:** None. Public Hearing Closed.

A **Motion** was made by Tim Thomas to approve the application of Richard and Lori Salton, owners, for area variances at 562 Hamlin Parma Town Line Road to construct an accessory storage shed in their front yard with a front setback of 10 feet from the westerly property line and are requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all accessory buildings shall be located in the rear yard and schedule 1 which requires a front setback of 75 feet. This property is currently zoned Medium Density Residential (MD).

In making the motion to approve:

- I don't believe the benefit can be achieved by other means feasible to the applicant; the unique definition of this lot by our Town Code does not leave the applicant any other reasonable opportunity to comply with the code, therefore the applicant has agreed that with the approval of this application to locate the shed within 15 feet of the westerly property line and within 20 feet of the wetlands buffer.
- There will be no undesirable change in neighborhood character or to nearby properties, visually the shed will be, to the Parma Town resident as they perceive it, in the back yard.
- The request is not substantial.



- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created due to the unique lot and how the code treats this type of a lot in this subdivision. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

## 6. JEAN RANALLETTI – 1571 MANITOU ROAD

The application of Jean Ranaletti, applicant, for a Special Permit to operate a Home Business at 1571 Manitou Road. The applicant is proposing to operate a spa treatment business. This property is currently zoned Rural Residential (RR).

Jean Ranalletti, applicant, explained that the shop she worked at closed approximately a month ago and that she would like to continue working out of the house. Veronica Robillard wanted to know if there would be employees or a sign. The applicant responded there would be no employees or sign placed on the property. She anticipates the hours to be a couple hours during the week at night, possibly Saturday. She would be done by 8 p.m. and would not have any hours on Sundays or holidays. There is room in the driveway for two cars. Jack Barton explained that he is not so concerned about the days or even a start time as he is having an end time. Dean Snyder stated that he would rather give the applicant as much latitude as they can on the hours because of the nature of the business and follow the rules of the Code.

Jim Zollweg asked what the square footage of the house is. The owner of the property, Ray Burke, stated it is 2200 square feet and the approximate size of the workspace is 12x8. Veronica Robillard wanted to know if there was going to be any special disposal of waste. The applicant stated that there is special disposal of the electrolysis wires and that she will properly dispose of those.

Veronica Robillard explained the Special Permit process, the renewal process and in the following year's application to ask for more than a one year renewal. Dean Snyder also explained that if there are no complaints on file to ask for more time if wanted because they can only grant what is asked for. It was also explained that she will not necessarily need to come in for the renewals of the permit. Dean Snyder wanted to clarify what services she offers so that they can put it in the motion and then she will not have to come back in the future to ask for that.

**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 and no further review is required.

**Public Comment:** None. Public Hearing Closed.

A **Motion** was made by Jim Zollweg to approve the application of Jean Ranalletti, applicant, for a special permit to operate a home business at 1571 Manitou Road. The applicant is proposing to run a spa treatment business and specifically to provide the following services: pedicures, manicures, waxing, facials and electrolysis at this site with the following conditions:

1. The applicant meets and will continue to meet all of the requirements of Zoning Code 165.79.1-Home Business.
2. The hours of business will comply with town regulations of a home business.
3. The applicant has indicated that there is sufficient parking available for clients in the driveway.
4. For a period of one year, to be renewable June 2013.

Seconded by Tim Thomas. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

## 7. DAVE DECONINCK – 645 MANITOU ROAD

Application was received from Dave Deconinck, 645 Manitou Road, for renewal of a special permit allowing outside storage of no more than eight (8) pieces of construction equipment.

Jack Barton reported that the inspection of this property was completed in June 2012 and no violations were identified by the ZEO or the fire marshal. There was discussion about the amount of time to extend the special permit. Because of issues in the past they board would rather renew this special permit for one year.

A **Motion** was made by Tim Thomas to approve the renewal of a special permit requested by Dave Deconinck to allow outside storage of construction equipment at 645 Manitou Road with the following original conditions:

1. No more than 8 pieces of construction equipment stored outside.
2. No outside storage of junk, trash, or dismantled vehicles.
3. Hours of operation: 7 a.m. to 8 p.m., Monday through Saturday; 12 Noon to 5 p. m. Sunday.
4. No sales of any kind.
5. Renewable in June 2013.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

## **8. HOBIE CATS SAILING CLUB – 153 LAKESIDE BOULEVARD**

Application was received from Herve Douvergne, 153 Lakeside Boulevard, for renewal of a special permit allowing a private sailing club on lake front property owned by Wolf Associates, LLP at 153 Lakeside Boulevard.

There was discussion among the board about the last renewal time period and when it was last renewed. Jack Barton explained that there was some confusion with the address and mailing them the renewal letter.

A **Motion** was made by Tim Thomas to approve the renewal of a special permit received by Herve Dauvergne, 153 Lakeside Boulevard, to allow a private sailing club on lake front property owned by Wolf Associates, LLP, at 153 Lakeside Boulevard, under the following original conditions:

1. For a period of four years, renewable in July 2016.
2. Parking to be done solely on the Wolf property.
3. No parking on the road.
4. Club members only will be allowed to park on the Wolf property.
5. Strict conformance with all NYS DEC and Town Conservation Board environmental impact conditions established by these organizations will be required.
6. No regattas will be held at this location.
7. Conservation Board is notified of the renewal.

Seconded by Jim Zollweg. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

## **MINUTES OF MAY 17, 2012**

The ZBOA minutes of May 17, 2012 were reviewed and the following recommended changes were made: Page 2, Para 5, line 4 add change enclosed to “an enclosed structure”; Page 2, Para 5, line 6, remove the words “it is more lenient”; Page 2, Para 9, line 1 “remove the”; Page 3, Para 5, line 4, change impede to “negative impact”; Page 3, Para 6, line 4, change establish to “established”; Page 4, Para 6, line 1, change rational to “rationale” A **Motion** was made by Jim Zollweg to approve the May 17, 2012 minutes as amended. Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

## **OTHER BUSINESS**

There was some discussion about redefining corner lots.

**ADJOURNMENT**

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Jim Zollweg, to adjourn the meeting at 10:11 p.m. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster, Recording Secretary