

**TOWN OF PARMA
ZONING BOARD OF APPEALS
March 19, 2015**

Members Present: Dan Melville
Veronica Robillard
Tim Thomas
Jim Zollweg

Members Absent: Stephen Shelley

Others Present: Art Fritz, Kyle Mullen

Public Present: Craig Bryce; George Thompson, Brigitte Thompson, Andy Leone

The meeting was called to Order by Chairperson Robillard at 7:02 p.m. Chairperson Robillard explained the function of the ZBOA and the decision-making process. She also explained that this is a five member board and a quorum of three is required to pass a motion.

TABLED FROM THE JANUARY 15, 2015 MEETING

1. CRAIG BRYCE – 645 MANITOU ROAD

The application of Craig Bryce, owner, for an area variance at 645 Manitou Road. The applicant seeking relief from Town Zoning Article V, subsection 165-34.C.2, which limits the total building area of accessory buildings to not exceed 400 square feet. The total square footage of this building is 432 square feet. The total square footage of accessory structures is currently 2,832 square feet. This property is currently zoned High Density Residential (HD).

Chairperson Robillard explained that this had been tabled to allow the applicant time to provide the Board with further documentation, including pictures, layouts and sketches, which the applicant has done. Chairperson Robillard asked if the applicant had any further information to add. The applicant stated he did not.

Tim Thomas verified with the applicant that the total square footage of accessory structure on the property will be 3,264. Art Fritz stated yes, a combination of all of the buildings will be 3,264 square feet. Tim Thomas felt that the applicant had provided everything that he wanted to see and he noted that this building was built when Mr. Bryce was out of town by one of his workers. Chairperson Robillard noted that this building has to be regarding as not being there and the board has to look at whether the needs fit the size buildings on the property. Tim Thomas asked the applicant what is going to be in the proposed building. The applicant stated that he will be storing items needed to maintain the property. He used to have someone who would mow the lawn and this year he will be maintaining himself. Tim Thomas also noted that someone rents out the cement building. Applicant stated yes for over 30 years. Art Fritz noted that that building is the one with the Special Permit. Tim Thomas stated that while he is normally not in favor of something like this and even though it's in a high density district that is more a function of the fact that there is a sewer near there, the average person going by would not characterize this as high density. The applicant stated that this parcel is 4 acres and is not seen from the road. There was discussion about the zoning change.

Chairperson Robillard is concerned that the buildings are larger than the needs and wonders if this building had not already been built maybe the board would have recommended a smaller building. By increasing the size more than 8 times this is very substantial. Tim Thomas felt that while it is substantial the cement building and old garage have both been there for over 30 years before Mr. Bryce owned it which predates the change in the code in 1998. Tim Thomas asked where the John Deere tractor is currently stored. The applicant stated it is at his store right now. Tim Thomas feels that this is excessive but there is a need. Chairperson Robillard felt that if he had come in before building was built then this could have been worked with. Tim Thomas felt that if denying the denial would have to be very substantive and he feels the applicant

has done a good job setting out the use space. They went through the balancing test and discussed the five criteria.

Jim Zollweg asked what the future prospects for the tenant, possibly at some point in the future the tenant will leave and then the buildings will be very under-utilized. If that were ever the case, he would look for a new tenant but he did not think that would happen and the son is going to run the business in the future. Dan Melville asked how long the lease agreement with the tenant is for. Mr. Bryce said it is year to year. There was discussion surrounding the residence and the rental of the house. Tim Thomas stated that part of the struggle is that the board has to have some substance to the motion regardless of what they decide. The lease agreements are separate for the residential building and the storage structure. There was discussion about the balancing test. Chairperson Robillard stated she is not sensing detriment to the community, there is no one at the meeting to speak against this; this is not going to impact upon anything. Tim Thomas asked what the revenue is on this rental. Applicant stated around \$600 per month.

Public Comment: None
Public Hearing Closed

A **Motion** was made by Jim Zollweg to **approve** the application of Craig Bryce, owner, for an area variance at 645 Manitou Road. This motion will provide relief from Town Zoning Article V, subsection 165-34.C.2, which limits the total building area of accessory buildings to not exceed 400 square feet. The total square footage of this building is 432 square feet which will bring the total square footage of accessory structures on the property to 3,264 square feet. This property is zoned High Density Residential (HD).

In making the motion I considered the unique circumstances of this property. There is a renter who utilizes the storage for a business on this property as well as residing on this property and has been doing those activities for much longer than the current code has been in effect. This property is a very large lot which is not typical of the High Density Residential Zoning District. The property size is approximately 4 acres. The building will not be visible from the highway and will not impede upon the view or activities of any neighbors. The applicant has a need for the storage that this building will provide because the applicant needs to maintain this large property. The equipment that needs to be stored is a large tractor. The applicant also has several special possessions, most notably a classic motorboat that needs to be protected and maintained. Through the whole process of this hearing and previous hearings we have received no complaints or concerns from any other residents of the Town. Applying the general principal of the balancing test in this case, I make an overall judgment that the benefit to the applicant does outweigh any detriment to the health, safety and welfare of the community.

Seconded by Tim Thomas. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Jim Zollweg; **Absent**: Stephen Shelley).

NEW BUSINESS

2. GEORGE and BRIGITTE THOMPSON – 6 ROCKRIDGE CIRCLE

The application of George and Brigitte Thompson, owners, for an area variance at 6 Rockridge Circle. The applicant seeking relief from Town Zoning Article V, subsection 165-34.C.2, total accessory building area shall not exceed 600 square feet. The proposed building is 1,728 square feet. This property is currently zoned Medium Density Residential (MD).

George Thompson, owner, explained that they moved to this property in April 2014. They moved from Scottsville and on that property there is a storage building that is the same size as this one requested. At the new property there are deed restrictions that require them to store campers, trailers, unregistered vehicles inside. They have a 32 foot camper and a car trailer, several motorcycles and a vintage car he is rebuilding plus tools. The requirement to store this stuff inside makes him need a building. Tim Thomas asked where they are now. The applicant stated they are stored at the Scottsville property. They are waiting to sell the property in Scottsville until after this is determined. There was discussion about the layout of the building. Tim Thomas asked if they are on a septic system. The applicant stated yes. Tim Thomas asked what prohibits him from pushing it back further. The cost to move it back further is much more expensive because

they would need to bring in fill/stone to get back to the building; it almost double the cost. It is wetter towards the back.

Board Discussion: Art Fritz 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. There are no comments from the Building Department.

Tim Thomas and Dan Melville had concerns with it being so close to the house.

Public Comment:

Andy Leone – 1 Rockridge Circle, has not seen the building which is why he is here. The applicants explained that this will look like the house and be vinyl sided to match the house. This is not a steel building. The intention is to make this legitimate so they can store their belongings at this property. Mr. Leone is concerned with the size of the building.

Tom Piccirillo – 7 Rockridge Circle, is concerned that they are building this large building which will interfere with his view and bought this property because they wanted this view. Even if landscaped this will block the openness of the property. He stated that his commercial truck is not able to be stored outside and had to make accommodations to his garage to store the truck. He is worried that if this blocks his view it would make it harder for him to sell his property.

Tim Thomas asked Art to clarify if the Town has any jurisdiction to enforce deed restrictions. No, so because there is no home owners association this falls on the onus of the home owners to comply, possibly a builder if still involved. Dan Melville stated that it could go to court.

Five minutes recess called so that the neighbors and applicants can talk.

After the recess Mr. Leone stated that he concern would be that this building be similar to the house in terms of architecture and landscaping. The applicant's stated that they are willing to comply with that and that those terms are part of the deed restrictions. With regards to Mr. Piccirillo's concerns the placement of building is not where the stakes are currently and that would be better for him at the end of the drive instead of in the back yard. Both would like to see drawings when they are ready. Mr. Piccirillo had some concerns with noise and engines. The applicant stated no there would not be excessive noise and would only be once and a while.

Public Hearing Closed

It was clarified for the Board that there is a camping trailer, 7 motorcycles, a car trailer, 2 recreational cars, and 3 four wheelers. There is also some lawn care equipment.

A **Motion** was made by Tim Thomas to **approve** the application of George and Brigitte Thompson, owners, for an area variance at 6 Rockridge Circle. The applicant seeking relief from Town Zoning Article V, subsection 165-34.C.2, total accessory building area shall not exceed 600 square feet. The proposed building is 1,728 square feet. This property is currently zoned Medium Density Residential (MD).

Using the balancing test, I believe the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

- The benefit cannot be achieved by other means feasible to the applicant. The applicant currently has the items stored at their prior home which they are hoping to sell pending approval of this variance so that the items can then be moved to their Rockridge property.
- There will be no undesirable change in neighborhood character or to nearby properties. The applicant has stated the accessory structure which will be 36' x 48' and located in the rear yard at the end of the driveway. The accessory structure is going to be in concert with the roof, siding and brick of the home so as to create an appealing view to both neighbors and passersby and will blend in the with the general character of the neighborhood and existing home.

- The request is substantial. The applicant has laid out that they are looking to store inside the structure a camping trailer, 7 motorcycles, car trailer that transports one car, two recreational cars, three four-wheelers, tools and various pieces of lawn care equipment. By being able to store these items inside versus outside it creates a positive impact so that the items are not out in the weather and are safe and secure.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created, by virtue of the amount of recreational vehicles and toys; however, using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community. Also pointed out was that there was a fair amount of discussion among the applicant and the immediate neighbors and the applicant has agreed to provide adequate landscaping to obstruct the view to the best of their ability to their surrounding neighbors.

Seconded by Jim Zollweg. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Jim Zollweg; **Absent**: Stephen Shelley).

SPECIAL PERMIT RENEWALS

3. GOOD NEWS COMMUNITY CHURCH – 4797 RIDGE ROAD

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

Art Fritz reported that a Fire and Safety inspection was completed on March 11, 2015 and there were no violations on the property. There are no complaints in the file. There was discussion about the late renewal. Art Fritz explained that it is late because of both the Town and the applicant.

Following discussion, A **Motion** was made by Tim Thomas to **approve** the application of Good News Community Church, 4797 Ridge Road West, for renewal of a Special Permit to operate a church under the same conditions as the original permit. This Special Permit will be for a period of one year from the original expiration date, renewable in August 2015.

Seconded by Jim Zollweg. **Motion carried to table (4-0)** (Ayes: Dan Melville, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent**: Stephen Shelley).

4. SUSAN RAS – 5520 RIDGE ROAD WEST

Application was received from Susan Ras, owner, for renewal of a Special Permit at 5520 Ridge Road West to display and sell automobiles in accordance with Town Zoning Article 9, subsection 165-78. The property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit and sit plan approval.

Art Fritz reported that a Fire and Safety Inspection was completed on March 11, 2015 and there were no violations. There are no complaints in the file. Art Fritz explained that the applicant has been in compliance but they were not aware that they needed to renew. He felt that they are a good business in the Town.

Following discussion, A **Motion** was made by Tim Thomas to **approve** the application of Susan Ras, owner, for renewal of a Special Permit at 5520 Ridge Road West to display and sell automobiles in accordance with Town Zoning Article 9, subsection 165-78 with the following conditions as listed in the original Special Permit application:

1. Not to exceed 35 display spaces.
2. Hours of operation: Monday through Sunday, 8am to 10pm.
3. No outside speakers.
4. For a period of 2 years from the original expiration date, renewable May 2016.

Seconded by Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Jim Zollweg; **Absent**: Stephen Shelley).

5. 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 display and sell automobiles in accordance with Town Zoning Article 9, subsection 165-78. The property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

Art Fritz reported that a Fire and Safety Inspection was completed March 11, 2015 and there were no violations. There are no complaints in the file.

Following discussion, A **Motion** was made by Jim Zollweg to **approve** the application of Greg Stahl Properties, owner, for renewal of a Special Permit at 4621 Ridge Road West to display and sell automobiles in accordance with Town Zoning Article 9, subsection 165-78 with the following conditions as listed in the original Special Permit application:

1. No more than 140 display spaces total.
2. All display areas will be paved.
3. No repairs or storage of junk cars.
4. No outside speakers.
5. No on-street parking.
6. Lighting will be directed away from Ridge Road West and neighboring properties.
7. Hours of operation: Monday through Friday, 9am to 9pm; Saturday, 9am to 5pm; no Sunday hours.
8. For a period of 2 years, renewable December 2016.

Seconded by Tim Thomas. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Jim Zollweg; **Absent**: Stephen Shelley).

6. STEVE STRATON – 222 BURRITT ROAD

Application was received from Stephen Straton, owner, for renewal of a Special Permit at 222 Burritt Road to continue operating a Home Business primarily focused on the sales of motorcycles and parts via the internet. Home Businesses are allowed with a Special Permit. This property is currently zoned Rural Residential (RR).

Art Fritz reported that a Fire and Safety Inspection was completed on March 19, 2015 and there were no violations. There are no complaints in the file. There was discussion about the lateness of the renewal. Art Fritz explained that because this is a hobby the applicant did not realize he had to renew this even though he received the notices.

Following discussion, A **Motion** was made by Tim Thomas to **approve** the application of Steve Straton, owner, for renewal of a Special Permit at 222 Burritt Road to operate a Home Business primarily focused on the sales of motorcycle and parts via the internet. Home Businesses are allowed with a Special Permit. This property is currently zoned Rural Residential (RR). The following conditions will apply as listed in the original Special Permit application:

1. There is a limit of 2 complete motorcycles allowed on the premises being repaired for resale.
2. No running of motorcycle engines outside the confines of the barn.
3. No test drives of the motorcycles either on the applicant's property or the public right-of-way.
4. Shipping of whole motorcycles must be taken to the carrier's distribution center.
5. Hours as stated in plan.
6. No repair of motorcycles not purchased by the internet. Repairs are only for the motorcycles being prepared for resale.
7. Follow all provisions of 165-79.1 – Home Business.
8. For a period of 1 year, retroactive to the original renewal date, renewable July 2015.

Seconded by Jim Zollweg. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Jim Zollweg; **Absent**: Stephen Shelley).

MINUTES OF FEBRUARY 19, 2015

The ZBOA minutes of February 19, 2015 will be reviewed at the April Zoning Board meeting.

OTHER BUSINESS

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Jim Zollweg to adjourn the meeting at 8:21 p.m. **Motion carried (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster
Recording Secretary