

**TOWN OF PARMA
ZONING BOARD OF APPEALS
JUNE 21, 2023**

Members Present: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Members Excused: Jack Barton, Alternate

Others Present: Arthur Fritz
Maureen Werner, Town Attorney

Public Present: Jared Lusk, Esq., Bill Bleier, Mitchell Zimmer, Trevor Ott, Bob Surash, Barb Surash, Jake Smith, Timothy Luety, K.T. Wheaton, Linda Sweeney, Mike Sweeney, Lynn Adams, Michel Adams

The meeting was called to Order by Chairperson Robillard at 7:03 p.m. Chairperson Robillard explained the function and decision-making process of the Zoning Board of Appeals. This is a five-member board with four members present. A quorum of three is required to pass a motion.

MINUTES OF MAY 17, 2023

1. Review Minutes from the May 17, 2023, Zoning Board Meeting

The ZBOA minutes of May 17, 2023, were reviewed. A **Motion** was made by Stephen Shelley to **approve** the May 17, 2023, minutes as amended.

Seconded by Dan Melville

Motion carried to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

NEW BUSINESS

2. WILLIAM BLEIER, OWNER, 1747 HILTON PARMA CORNES ROAD

The applicant is requesting relief from Town Zoning Article V, subsection 165-32 (C) (2) and Article X, subsection 165-82 (C) (2) for the proposed construction of a 1500 sq. foot accessory structure with 16' walls for storage. The total sq. footage of all accessory structures will be 3,000 sq. feet. The Town Code limits accessory structures to 1500 sq. ft. with a wall height not to exceed 12 feet. This property is zoned Rural Residential.

It was noted that the Board received the information on the interior layout as requested at the May meeting. The layout shows there is a lot of equipment that will be better stored inside the proposed structure.

Public Comment: NONE

Public Hearing: Closed

A **motion** was made by Dan Melville to **approve** the application of William Bleier, owner of 1747 Hilton Parma Corners Road requesting relief from Town Zoning Article V, subsection 165-

32 (C) (2) and Article X, subsection 165-82 (C) (2) for the proposed construction of a 1500 sq. foot accessory structure with 16' walls for storage. The total sq. footage of all accessory structures will be 3,000 sq. feet. The Town Code limits accessory structures to 1500 sq. ft. with a wall height not to exceed 12 feet. This property is zoned Rural Residential.

Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. The applicant provided a layout showing the amount of equipment that will be stored inside the structure.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. Allowing indoor storage will keep the property clean.
- The request *is* substantial. This is double the allowed size; but is mitigated by the large amount of equipment needed to be stored.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is self-created. 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 to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

3. TREVOR OTT, OWNER, 642 PARMA CENTER ROAD

The applicant is requesting relief from Town Zoning Article V, subsection 165-31 (E)(1), Schedule I for the placement of a Pole Barn located in the rear yard on the northeast side of the home with a 15' rear setback. The Town Code requires a 25 ft. rear setback. This property is zoned Agricultural Conservation (AC).

Art Fritz said this was tabled at the last meeting to readvertise the application correctly. The Town mailed neighborhood notifications at their expense due to the error.

Trevor Ott said he is looking for approval for the pole barn to be located in the rear yard at a 15 ft. setback because locating the structure at 15 ft. allows the structure to sit behind the house.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter and a Type II action; no further review required. There were no letters in the file.

Public Comment: NONE

Public Hearing: Closed

A motion was made by Stephen Shelley to **approve** the application of Trevor Ott, owner of 642 Parma Center Road, for relief from Town Zoning Article V, subsection 165-31 (E)(1), Schedule 1 for the placement of a Pole Barn located in the rear yard on the northeast side of the home with a 15' rear setback. The Town Code requires a 25 ft. rear setback. This property is zoned Agricultural Conservation (AC). Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. This location will keep the structure behind the house.

- There will be *no* undesirable change in the neighborhood character or to nearby properties.
- The request *is somewhat* substantial.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is not self-created; the layout of the lot was not done by the applicant. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Dan Melville

Motion carried to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

4. MITCHELL ZIMMER, OWNER, 293 PARMA CENTER ROAD

The applicant is requesting relief from Town Zoning Article V, Subsection 165-31 (C) (2), and Article X, subsection 165-82 (C) (2), and Section 165-17 D, Accessory Use, for the proposed construction of a 4,800 square foot accessory structure with 16' walls for storage. Town Code limits accessory structures to 2,000 sq. ft. with a wall height not to exceed 12', and the structure to be subordinate to the principal use. In this case the house is 2,464 sq. ft. This property is zoned Agricultural Conservation (AC).

Mitchell Zimmer said his property is 5 acres. The applicant stated there were two structures on property previously that collapsed, and this structure will replace those. He has a 13 ft. camper which necessitates larger sidewalls to accommodate larger doors to get the camper in and out of the building. A layout was provided showing what will be stored inside. Currently the applicant is paying to store his boat off site, and he would like to bring it to the property for storage, so he does not have to continue paying rent. All of the belongings are personal in nature not for a business. He would like to keep his belongings secure, out of the elements, and keep the property clean.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter; unlisted action and no further review required. There were no letters in the file.

Spencer Wren said this request is substantial and asked if the applicant had considered a smaller structure. The applicant feels he has a lot of stuff, and he needs room to move around inside the structure. The applicant talked to the neighbors who all stated they are okay with this application.

Public Comment:

Mike Adams said he lives next to the applicant and supports the application. He feels this structure will be smaller than the previous structures on the property.

Public Hearing: Closed

A motion was made by Dan Melville to **approve** the application of Mitchell Zimmer, owner of 293 Parma Center Road. The applicant is requesting relief from Town Zoning Article V, Subsection 165-31 (C) (2), and Article X, subsection 165-82 (C) (2), and Section 165-17 D,

Accessory Use, for the proposed construction of a 4,800 square foot accessory structure with 16' walls for storage. Town Code limits accessory structures to 2,000 sq. ft. with a wall height not to exceed 12', and the structure to be subordinate to the principal use. In this case the house is 2,464 sq. ft. This property is zoned Agricultural Conservation (AC).

- The benefit *cannot* be achieved by other means feasible to the applicant. The applicant provided a layout showing the large amount of equipment that will be stored.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. The property is 5 acres with trees that will help screen the structure.
- The request *is* substantial but is mitigated by the fact that the equipment needs to be kept safe and out of the elements.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is self-created by the applicant acquiring all of the equipment that needs to be stored. 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 to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

5. ROBERT & BARBARA SURASH, OWNER, 11 AMPOR BEACH

The applicant is requesting relief from Town Zoning Ordinance Article V, subsection 165-35 (C) (2), (E) (1) (Schedule 1) for the proposed construction of a 1,024 sq. ft. accessory structure with a 10 ft. rear setback and 14' side setbacks. Town Code limits accessory structures to 400 sq. ft. with a 25 ft. rear and 25 ft. side setback. This property is zoned Waterfront Residential (WF).

Robert Surash said they are looking to building the structure for storage of kayaks, jet skis, household equipment and outdoor equipment. The structure will be built to match the house. This is on a private road which 15 houses, 9 of the houses have accessory structures and 7 of them larger than their request. Barbara Surash said being on the lake, they do not have a lot of storage space inside the house, no basement and the attic is hard to access. They have stored some of their belongings at their brother's house.

Chairperson Robillard asked if they considered something smaller. The applicant said they have already gone smaller than what they originally wanted to do.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter; an unlisted action and no further review required. There were no letters in the file.

Spencer Wren asked why the 10 ft. front setback. The applicant said it is so the structure will sit in line with the other structures on the road. Art Fritz explained that the code changed in 1998 from 10 ft. to 25 ft. front setback, which is why those other structures sit at 10ft.

Public Comment: NONE

Public Hearing: Closed

A motion was made by Dan Melville to **approve** the application of Robert and Barbara Surash, owner of 11 Ampor Beach requesting relief from Town Zoning Ordinance Article V, subsection

165-35 (C) (2), (E) (1) (Schedule 1) for the proposed construction of a 1,024 sq. ft. accessory structure with a 10 ft. rear setback and 14' side setbacks. Town Code limits accessory structures to 400 sq. ft. with a 25 ft. rear and 25 ft. side setback. This property is zoned Waterfront Residential (WF).

Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. Lots along the lake are small with limited storage. The applicant provided a layout of belongings being stored.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. There are several other structures on the road that have large accessory structures. Limited storage in the house necessitates the need for a structure to store household items and outdoor equipment.
- The request *is* substantial.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is not self-created, due to the area and lack of storage. 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 to approved (4-1)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren

Nay: Ann Williams

Excused: Jack Barton, Alternate

6. TIMOTHY LUETY, OWNER, 957 MANITOU ROAD

The applicant is requesting relief from Town Zoning Article V, subsection 165-32 (C) (2) (schedule 1) and Article X, subsection 165-82 (C) (2) for the proposed construction of a 3,072 sq. foot accessory structure with 16' walls for storage, with a 10' side setback. The total sq. footage of all accessory structures will be 3,000 sq. feet. The Town Code limits accessory structures to 1500 sq. ft. with a wall height not to exceed 12 feet in height and a 25 ft. side setback. This property is zoned Rural Residential (RR).

Timothy Luety said when he purchased the home there were two dilapidated/unsafe structures on the property that were removed. He is looking to erect a structure for storage in their place. He will also be using the structure for his woodworking hobby. They have a 34 ft. travel trailer that will be stored inside necessitating the higher sidewalls and double doors so that he can pull the travel trailer through the structure instead of having to reverse either in or out of the property onto the main road (Manitou Rd) which is busy. The requested length of the structure is to accommodate the trailer and truck and the width is to accommodate the double doors and windows.

The Board asked why he could not satisfy the setbacks. The applicant said he could if he really needed to, but it will be easier to navigate on the property with the travel trailer if it were located in the requested spot. It would also move the structure closer to the neighbor's property versus an empty lot. Stephen Shelley noted this structure will sit over 400 ft. from Manitou Road.

Board Discussion: Arthur Fritz reported notifications were in order. This is a local matter and a Type II action; no further review required. There were 2 letters in the file indicating that the neighbors are okay with the application.

Public Comment: NONE

Public Hearing: Closed

Chairperson Robillard asked if he considered something smaller. The applicant said he did shorten the building but made it wider to make it easier to move things around inside the structure; he could not go any smaller.

A motion was made by Stephen Shelley to **approve** the application of Timothy Luety, owner of 957 Manitou Road requesting relief from Town Zoning Article V, subsection 165-32 (C) (2) (schedule 1) and Article X, subsection 165-82 (C) (2) for the proposed construction of a 3,072 sq. foot accessory structure with 16' walls for storage, with a 10' side setback. The total sq. footage of all accessory structures will be 3,000 sq. feet. The Town Code limits accessory structures to 1500 sq. ft. with a wall height not to exceed 12 feet in height and a 25 ft. side setback. This property is zoned Rural Residential (RR).

Considering the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant. The applicant provided a lot of information as to why he needs the size and height of the structure. The side setback is needed to navigate the camper on the property.
- There will be *no* undesirable change in the neighborhood character or to nearby properties.
- The request *is* substantial but mitigated by the fact it sits 400 ft. off the road.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is self-created, due to the area and lack of storage. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

Seconded by Dan Melville

Motion carried to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

7. CROWN CASTLE, OWNER, 824 PECK ROAD

The applicant is applying for a Special Permit under Article IX, Subsection 165-59 Essential Services to allow Castle/Verizon Wireless to erect a cell tower 113.6 feet high and to add an addition to the existing tower compound of 896.5 feet. This property is zoned Agricultural Conservation (AC).

Jared Lusk, Esq., on behalf of the applicant said the existing tower is 95 ft. tall; they are looking to add an additional an 18.5 ft. extension onto the tower. The applicant also includes the addition of 896.5 ft. of fencing to surround the structure and keep the equipment protected. He noted the fall zone is still within the leased area. Notice was given to the FAA as required and additional landscaping will be added per the Planning Board. Art Fritz noted the Town Board approved the fence at last night's Town Board meeting.

Board Discussion: Arthur Fritz reported notifications were in order. One neighbor did not receive notification, but she was able to come into the Building Department today and review the documents and is in attendance at the meeting tonight. A letter was submitted to the Board stating she was able to view documents prior to the meeting and has all of the information she needs at this time. This is a local matter and a Type II action; no further review required. There were no letters in the file.

Public Comment:

Linda Sweeney had questions regarding the lease for the property, the length, terms and who is responsible for removal of the Tower at the end of the lease. It was noted Crown Castle would be required to remove the tower at the end of the lease and Maureen Werner, Esq. stated the Town has a bond to allow the Town to remove the tower if abandoned. As to the Lease those are matter not for this Board and the Board took a short recess so the applicant and neighbor could discuss.

Public Hearing: Closed

A **motion** was made by Dan Melville to acknowledge that SEQR was provided to the Board and the Board approves the SEQR and declares a Negative Declaration.

Seconded by Stephen Shelley

Motion carried to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

A **motion** was made by Ann Williams to **approve** a Special Permit under Article IX, Subsection 165-59 Essential Services to authorizing Castle/Verizon Wireless to add an additional 18.5 ft. to the current 95 ft. cell tower for a total of 113.6 feet and to add an addition to the existing tower compound of 896.5 feet. This property is zoned Agricultural Conservation (AC). The special permit will expire with the lease for the property.

Seconded by Spencer Wren

Motion carried to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville to adjourn the meeting at 9:10 p.m.

Seconded by Stephen Shelley and all were in favor.

Motion carried to approved (5-0)

Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Spencer Wren, Ann Williams

Excused: Jack Barton, Alternate

Respectfully submitted,

Carrie Fracassi
Recording Secretary