

TOWN OF PARMA
ZONING BOARD OF APPEALS
June 16, 2016

Members Present: Dan Melville
Veronica Robillard
Stephen Shelley
Tim Thomas
Jim Zollweg

Others Present: Dennis Scibetta, Art Fritz, Kyle Mullen

Public Present: Gary Ritzel, Lori Ritzel, Theresa Reed, Robert P. Sobb, Joseph Yockel, Bryssa Polatas.

The meeting was called to Order by Chairperson Robillard at 7:00 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 BUSINESS FROM APRIL 21, 2016

1. VERIZON WIRELESS – 1150 CLARKSON PARMA TOWN LINE ROAD

The application of Verizon Wireless for a Special Permit to erect a 170' wireless communications tower with an additional 4' lightning rod at 1150 Clarkson Parma Town Line Road. This use is allowed in accordance with Town Zoning Article IX, subsection 165-74.V which states in part that the Zoning Board of Appeals is authorized to approve a special permitted use permit for communication towers in any zoning district. This property is currently zoned Agricultural/Conservation (AC).

Katherine Mendola, representative for Verizon Wireless, explained that they appeared last month before this board and at that time the Planning Board had not yet determined SEQR so the vote for the Special Permit could not be held. This has since been before the Planning Board and they addressed the three issues that were mentioned by this board; 1. Possibility of moving this to the West, 2. Lighting, 3. Aviation in the area. After discussion with the Planning Board and Verizon it was decided that this would be moved 75' to the west and the neighbors were pleased with that. There was a negative declaration for SEQR and preliminary site plan approval was given. If this Special Permit is granted they will go back to the Planning Board for final site plan approval. As for the lighting, the tower would only be lit if it was being serviced and they will be on a timer. They will not run from dusk to dawn. As for the final issue, this will be registered with the FAA. Dan Melville asked if there was anything in the Planning Board minutes that the Zoning Board should know about. Dennis Scibetta explained that they addressed all of the Zoning Board questions and further explained that this structure will meet all setbacks and regulation requirements.

There was discussion about what happens to the structure if it becomes abandoned and the cost to remove. They discussed the possibility of having a Performance Bond as a condition to this Special Permit or having the Planning Board do it if it is consistent with other cell phone towers. Tom Griner from Nixon Peabody stated they could get an estimate for the cost to remove and then double that amount to cover inflation. After further discussion it was decided that this would be left for the Planning Board to do with a recommendation of the Zoning Board. Mr. Griner stated that they would just go ahead and get an estimate for removal before the Planning Board meeting.

Board Discussion: Dennis Scibetta 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 were no letters in the file.

Public Comment: None
Public Hearing: Closed

After discussion, a **Motion** was made by Tim Thomas to **approve** the application of Verizon Wireless for a Special Permit to erect a 170' wireless communications tower with an additional 4' lightning rod at 1150 Clarkson Parma Town Line Road. This use is allowed in accordance with Town Zoning Article IX, subsection 165-74.V which states in part that the Zoning Board of Appeals is authorized to approve a special permitted use permit for communication towers in any zoning district. This property is currently zoned Agricultural/Conservation (AC). He would like the Planning Board at their next meeting to consider the option of requiring a performance bond on the cell tower if that is consistent with other cell towers that have been erected in the Town over the last few years. He is not going to put a timeframe on the tower because after looking at the code 165-74.T addresses the issue should the tower become obsolete it would need to come down within a specified time. The Planning Board did address the three items brought up by the Zoning Board at the last meeting with the applicant and they were able to address items 1 and 2 and referring to item 3, this will be registered with the FAA.

Seconded by Dan Melville. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

Dan Melville felt that this application was very well done and researched. Dennis Scibetta felt that this is one of the best prepared application and presentation at the Planning Board meeting. After going through the application at the Planning Board there were no questions asked from the public because they were all answered during the testimony at the hearing.

TABLED BUSINESS FROM MAY 19, 2016

2. GARY AND LORI RITZEL – 1777 MANITOU ROAD

The application of Gary and Lori Ritzel, owners, for a Special Permit at 1777 Manitou Road. The applicants currently have 4 dogs on this property and are requesting a Special Permit in accordance with Town Zoning Article X, subsection 165-82.AA.3. A Special Permit is required to have more than three dogs on a property. This property is currently zoned Medium Density Residential (MD).

Lori Ritzel, owner, explained that she had two dogs and her son moved back home and also has two dogs. Ms. Ritzel explained that this would not be forever and she expects within the next year her son would be moving out and his dogs would move with him. Chairperson Robillard asked if she intended to breed any of these dogs. The applicant stated that all of the dogs are neutered/spayed. She also stated that all of them have current vaccines and they are licensed with the Town. Dan Melville clarified that this would be for about a year. They have invisible fencing on their property and bark collars to help curb the barking. The two Australian Shepherds are both 6 years old. Puggles is 2 and Pickles is 1. Tim Thomas asked if there were any complaints on file. Art Fritz stated that there was a complaint for barking but after the bark collars were purchased there have been no further complaints.

Board Discussion: Dennis Scibetta 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 Gary and Lori Ritzel, owners, for a Special Permit at 1777 Manitou Road. The applicants have 4 dogs on this property; Puggles, Pickles, Sasha and Libby; and are requesting a Special Permit in accordance with Town Zoning Article X, subsection 165-82.AA.3. A Special Permit is required to have more than three dogs on a property. All of these dogs are licensed by the Town and all of the dog's information is included on their licenses. The term for this will be one year, to expire in June 2017. This Special Permit only applies to these four specified dogs.

Seconded by Dan Melville. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

NEW BUSINESS

3. GARY AND LORI RITZEL – 1777 MANITOU ROAD

The application of Gary and Lori Ritzel, owners, for an area variance at 1777 Manitou Road. The applicants are proposing to construct a 622 square feet addition to an existing 576 square feet accessory structure, which would bring the total area of accessory structures on the property to 1,198 square feet. They are requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

Gary Ritzel, owner, explained that the reason they asked for this to be tabled last month was to recheck the measurements of the structure. They are in need of this structure which will be added to an existing structure to store various items that are used to maintain the 8 acres of wooded land that they own. This would get all of the existing machinery inside instead of in the yard and he would rather not store them in the garage. The reason for the height is so that he can store the case loader inside, which is currently stored outside. Mrs. Ritzel explained that they would be removing the two temporary sheds that store smaller items.

Chairperson Robillard asked the applicant to list the types of items that will be stored inside. The applicant listed the items as follows: push lawnmower, snow blower, lawn cart, spreader, fork lift tines, 54' deck riding lawnmower, shovels, rakes, brush blower, John Deer tractor and bucket loader. Tim Thomas stated normally the Board prefers to look at a layout of what will be stored but because of the equipment the applicant listed plus the stuff from the other two sheds Mr. Thomas felt that this building is necessary.

Board Discussion: Dennis Scibetta 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 were no letters in the file.

Public Comment: None

Public Hearing: Closed

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of Gary and Lori Ritzel, owners, for an area variance at 1777 Manitou Road. The applicants are proposing to construct a 622 square feet addition to an existing 576 square feet accessory structure, which would bring the total area of accessory structures on the property to 1,198 square feet. This will provide relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

In making this motion the balancing test was considered:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant has provided a list of the items that will be stored in this and those items are quite sufficient to fill up this structure and are also necessary for maintenance of a property of this size and nature. The two existing temporary structures will be removed as stated in their application.
- There will be no undesirable change in neighborhood character or to nearby properties. The proposed location is far from the road and any other neighbors.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- Given the need for maintenance equipment for this property the alleged difficulty is not 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 Tim Thomas. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

4. DEREK AND MICHELLE SMITH – 131 UNDERWOOD AVENUE

The application of Derek and Michelle Smith, owners, for an area variance at 131 Underwood Avenue. The applicants are proposing to construct a 12x12 shed with a rear setback of 5 feet and are requesting relief from

Town Zoning Article V, subsection 165-34.E.1, Schedule 1, which states that the rear setback is to be 10 feet. This property is currently zoned High Density Residential (HD).

There was no one here for this application. There was discussion about the options going forward. It was decided that the Board would move on to the next item and then return to this in case the applicant is running late.

5. ROBERT SOBB – 5497 RIDGE ROAD WEST

The application of Robert Sobb, owner, for a Special Permit to sell automobiles at 5497 Ridge Road West. The applicant is proposing to display 88 vehicles for sale. This property is currently zoned Highway Commercial (HC) and the proposed use is allowed with a Special Permit.

Dennis Scibetta explained the history of this application. He stated that the applicant has three parcels next to each other and the business is on the center parcel. The parcel to the west currently has a special permit to park vehicles but that was rezoned from Highway Commercial to General Commercial because of this the special permit for this property has expired. The parcel to the east has also been rezoned from General Commercial to Highway Commercial. Both of these rezones were approved by the Town Board. Because of this the applicant is now requesting to have a special permit issued on the property to the east. This property is 3.3 acres and he would like to be able to store 88 vehicles. The property to the west would no longer be used for the business. Kyle Mullen explained that the parcel to the west was split zoned and contains wetlands on it and now it is all General Commercial.

Robert Sobb, owner explained that the business is run out of 5503 Ridge Road West with a previous approved conditional use permit and all sales are done at that location. The expired special permit allowed him to have 125 vehicles but he is only requesting 88 now on the 5497 Ridge Road West location. There were a total of 325 cars and now there would be a total of 225 cars. This would make the amount of total cars less than what was originally allowed. Mr. Sobb explained that this will be all one business. All sales will be done at the building on 5503 Ridge Road West. Tim Thomas felt if approved than the conditions should be similar to the conditions at 5503 Ridge Road West. Chairperson Robillard read over the conditions of the conditional use permit approved in 1997 for 5503 Ridge Road West. Chairperson Robillard asked if the cars were going to be parked on the grass and if cars would be being serviced on the property. Mr. Sobb stated that they will be parked on stones and he is hoping that he will pave it in the future. He also stated that all servicing of cars will happen at 5503 Ridge Road West in his building. Art Fritz stated that he could service vehicles on this property if he wanted to but sales would be prohibited.

Board Discussion: Dennis Scibetta 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 were no letters in the file. Dennis Scibetta stated that this property is well kept and maintained.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Tim Thomas to **approve** the application of Robert Sobb, owner, for a Special Permit to sell automobiles at 5497 Ridge Road West. The applicant is proposing to display 88 vehicles for sale. This property is currently zoned Highway Commercial (HC) and the proposed use is allowed with a Special Permit. The conditions for this application will be consistent with the conditions on a Conditional Use Permit at 5503 Ridge Road West approved at the April 24, 1997 Zoning Board of Appeals meeting. This is meant to be a satellite sales location only. Additional conditions will be:

1. The applicant is required at a minimum to provide a stone parking lot and not be parked on grass.
2. Not to exceed 88 cars.
3. Cars should be 50' back from the road right of way.
4. No exterior PA systems.
5. This Special Permit will be good for a term of 1 year, to expire in June 2017.

Seconded by Jim Zollweg. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

DEREK AND MICHELLE SMITH – 131 UNDERWOOD AVENUE

Mr. and Mrs. Smith of 131 Underwood Avenue never showed up for the meeting and there was no notification or notice given to the Building Department. There was discussion about acting on this agenda item.

After discussion, a Motion was made by Tim Thomas to **table** the application of Derek and Michelle Smith, owners, for an area variance at 131 Underwood Avenue to the July 2016 meeting without prejudice.

Seconded by Jim Zollweg. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

MINUTES OF MAY 19, 2016

The ZBOA minutes of May 19, 2016 were reviewed. **Motion** was made by Stephen Shelley to **approve** the May 19, 2016 minutes as presented. **Seconded** by Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Jim Zollweg; **Abstained**: Tim Thomas).

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Dan Melville to adjourn the meeting at 8:30 p.m. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster
Recording Secretary