

**TOWN OF PARMA
ZONING BOARD OF APPEALS
JUNE 15, 2017**

Members Present: Dan Melville
Veronica Robillard
Stephen Shelley
Dean Snyder
Jim Zollweg

Members Excused: Tim Thomas

Others Present: Art Fritz, Dan Barlow

Public Present: John O'Connell, Joan O'Connell, Nick Spaziano, Sandy Hoover, Gary Hoover

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 explained that this is a five member board and a quorum of three is required to pass a motion.

NEW BUSINESS

1. NICHOLAS SPAZIANO – 538 TRIMMER ROAD

The application of Nicholas Spaziano, owner, for an area variance located at 538 Trimmer Road. The applicant is proposing to construct a 1,800 square feet accessory structure and is 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).

Chairperson Robillard clarified that this application is for an area variance not a use variance as was checked on the application.

Nicholas Spaziano, owner, explained that the house was built three years ago. He stated that he is looking to build this for storage and that it will be built behind the house to the left and will be hidden in the trees not out in the open. He stated that this will be a metal pole barn construction. It will have a 12'x10' garage in the center with windows on the side of the door. On the right side of the barn there will be a man door and the left and back will have windows to help with lighting. It will be an earth tone color. He stated that he needs this for storage to store 3 ATV's, lawnmowers, 2 dirt bikes, a zero turn (which is currently being stored under a tarp in the yard), tractor and to help clear out items currently being stored in his garage.

Chairperson Robillard asked if he had considered making the structure smaller. The applicant stated he had not because of the items he is looking to store currently and he is also looking at purchasing a tractor. Mr. Spaziano also stated that he does not have an attic in his house to store. He felt that he will end up filling up the space he is requesting. Chairperson Robillard felt that this request is substantial and that his needs currently do not substantiate the need for this building. Her concern stems from the fact that currently he is storing most of this in his current garage and that he is still able to park one of his vehicles in there.

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 were no letters in the file.

Jim Zollweg had concerns over the possibility the applicant may start up a side business because the applicant stated he is looking to do side work and would need to store things for that. Mr. Zollweg stated to the applicant that per the code, this structure could only be used for personal use and lawn care items not for business use.

Dean Snyder asked about the roof because of the sketches provided. Stephen Shelley asked if it would be a regular gable roof. The applicant stated yes, this would be a regular roof and that those were just sketches.

Public Comment:

Gary Hoover, 726 Ogden Parma Town Line Road, which is two lots away, stated that he is concerned with possible noise and what a building of this size would be used for. He is concerned about a business being there, possible chemicals (ex. gas, oil), and possible additional traffic. Dean Snyder stated that there are codes in place to protect the safety and welfare of the residents and the Town would oversee if there was a business being run on the property. Dr. Snyder also stated that many people store oil and gasoline on their premises.

Chairperson Robillard read the "Guidelines of Public Comment." A request was made to keep the comments all relevant to the application and for all comments to be directed to the Board.

Sandra Hoover, 726 Ogden Parma Town Line Road, is also concerned about the size of the structure, noise and the possibility of large equipment on his property.

John O'Connell, 514 Trimmer Road, wanted to know where on the property this structure would be. The applicant stated that this will be behind the house in the NE corner of the property, he further stated that most of his property is in the front of his house because the house is built at the back of the property. There was discussion about the two addresses associated with this parcel; 538 Trimmer Road (Physical Tax Address) and 7 Tricia Lane (Mailing Address). After discussion it was determined that both of these addresses are one in the same. Art Fritz explained that this does happen and that the assessor does not always recognize private drives so he will use the Tax Address and the private drive address is not recognized. Mr. O'Connell felt that this structure should be built incidental to the property and that this structure is too big.

Gary Hoover wants the applicant to state what the future use of the building will be. Chairperson Robillard stated that this structure is 3 times the amount allowed. Mr. Spaziano stated that along with the list of things he would store stated earlier he also would be storing his yard furniture, personal ladders, lawn mower cart, 4x4 trailer, kid's bikes and he also likes to do woodworking for hobby only. The applicant stated that he is not looking to run a business out of the property.

Public Hearing: Closed

Chairperson Robillard asked what the size of the smaller shed currently on the property is. The applicant stated that this building is 8'x10." Dan Melville asked if he would be removing the current shed. Mr. Spaziano stated that he could get rid of it if he needs to but he was going to make this a garden shed.

Dean Snyder asked Art Fritz if the Town has a noise ordinance. Mr. Fritz stated that there is a noise ordinance which runs from 9p.m. until 9a.m. and is enforced by the Sheriff Deputies. Dr. Snyder asked Mr. Fritz if there is a limit to the amount of gasoline that can be stored on a property. Mr. Fritz stated no.

After discussion, a **Motion** was made by Dean Snyder to **approve** the application of Nicholas Spaziano, owner, for an area variance located at 538 Trimmer Road to construct a 1,800 square feet accessory structure and granting 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). This motion approves a total of 1800 square feet of storage on this property. If this building is constructed at 1800 square feet, all other storage would need to be removed. All information from the application will be included as part of this motion.

In making this determination:

- The benefit cannot be achieved by other means feasible to the applicant. We have a drawing that shows existing equipment with the exception of the tractor. When you look at a drawing like this it looks like you can place everything right next to everything filling the area 100%. Anyone who has had a storage building like this recognizes that it is not just a storage building; it is a building where you are going to do work. If working you need room to work, if working on a car you need work to move around the equipment and vehicles. He looked at it dropping it to a reasonable size of 30'x40' but when putting the pieces together he does not see that the applicant would be able to store all of the equipment much less be able to walk around and work. He feels that this is an appropriate space and it is appropriate to have some free space in the building.
- There will be no undesirable change in neighborhood character or to nearby properties. He does not see that there is. Although the drawings provided were not consistent but this parcel is almost 10 acres. This is being constructed on a part of the property that minimizes any impact to the existing neighbors both visually and sound.
- The request is substantial. Our code calls out 600 feet maximum and this is 3 times that amount. It needs to be remembered that if a resident owns a half acre lot, they can put a 600 feet shed on the property no questions asked. This is a 10 acre lot which is 20 times the size. For reference our code also calls out the maximum amount of a lot that can be covered by a building which in a single residential area that amount is 20%, which would be 84,000 sq. ft. This is not a typical property. Because of size alone it is going to have needs which an average push lawnmower cannot handle.
- There will be no adverse physical or environmental effects. Some of the questions brought up had to do with noise. There is a noise ordinance in place whether it is a half-acre lot or a 10 acre lot. In regards to gasoline, oil or chemical. Most garages store some amount of gas to use their lawn equipment, the more equipment the more gas. There has been times where this has been an issue depending on the location of the building but it is not a concern here because this building is not in close proximity to any other structures.
- The alleged difficulty is self-created. The applicant bought a property with 10 acres on it, built a house with a garage and as frequently happens, when you first buy your house you cannot afford to have storage so you use your garage which precludes you from using the garage for its intended use, which is to store your vehicles in a safe location and out of the weather. Also stored is equipment used to maintain the property and in most cases where the lot is small there is enough room, in this case in addition to the garage they have a storage shed which is according the applicant approximately 8'x10' which is not sufficient to service a property this size.

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

Chairperson Robillard stated she is having difficulty with this. She felt that the need for this space was not demonstrated and that the drawing was not to scale of the need. She stated that the items are currently in a 300 square feet garage along with a vehicle. She feels that the neighbors have expressed concerns and that the request is very substantial and it is self-created. She feels that construction details were not provided and that this variance will run with the property and that the Town will have a hard time enforcing this. She would have liked to have seen this tabled so that applicant can relook and rethink this application and possibly scale down the size of the building. Dean Snyder stated that the drawings show the construction of the building. Chairperson Robillard feels that this application was very vague.

Jim Zollweg would have preferred to table this to have a more concise application and drawings. He also would have liked to see a smaller footprint for this building. He felt that some of the things currently being stored will go away as the kids get older. Dean Snyder felt that this is not true and in fact as kids get older there is more to store.

Seconded by Stephen Shelley. **Motion carried to approve (3-2)** (Ayes: Dan Melville, Stephen Shelley, Dean Snyder; **Nay:** Veronica Robillard, Jim Zollweg; **Excused:** Tim Thomas).

MINUTES OF MAY 18, 2017

The ZBOA minutes of May 18, 2017 were reviewed. **Motion** was made by Stephen Shelley to **approve** the May 18, 2017 minutes as presented. Seconded by Jim Zollweg. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Chairperson Robillard, Stephen Shelley, Jim Zollweg; **Abstain:** Dean Snyder; **Excused:** Tim Thomas).

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville, seconded by Jim Zollweg to adjourn the meeting at 8:20 p.m. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; **Excused:** Tim Thomas).

Respectfully submitted,

Carrie Webster
Recording Secretary