

**Minutes of the Town of Perinton  
Zoning Board of Appeals  
Meeting of January 28, 2013**

**Zoning Board Members present**

Thomas Young, Chairman  
Sam Space  
Vincent Arcarese  
John N. Moose  
Melissa L. Barrett  
Seana Sartori  
Robin Ward Ezell

**Conservation Board Members present**

Chris Fredette  
Bob Salmon

**Town Officials present**

Robert Place, Town Attorney  
John Beck, Zoning Officer  
Lori Stid, Zoning Board Clerk

Mr. Young called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures. He states that the Planning Board reviewed the applications that are before the ZBA tonight and have no comment on the applications.

1. Dianne Giovine, owner of property located at 70 South Ridge, requesting a renewal of a Special Permit of the Town of Perinton Zoning Ordinance Section 208-31A (3), to allow a Pastry Business ( Holy Cannoli Sweet Shoppe) from the basement of the home. Said property being located in a Residential AA District.

Ms. Giovine presented her application to the Board. It is a renewal and the business is operating as per the terms of the ZBA decision. She attends bridal shows and advertises in two wedding magazines.

Mr. Space states that the Board received a Fire Marshal report stating that the review of this property was satisfactory.

Mr. Young asked if any of the neighbors have any objections. The applicant states no; they order from her.

Mr. Young states that the Conservation Board reviewed this request and has no concerns.

Mr. Young asked for questions or comments from CED. Mr. Beck states that the DPW has no concerns on this application, and CED issued comments as follows:

**The CED Dept. has no concerns with this application.**

Mr. Place states that this is a renewal; therefore no SEQR determination is required.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Space made a motion to grant a renewal of a Special Permit of the Town of Perinton Zoning Ordinance Section 208-31A (3), to allow a Pastry Business ( Holy Cannoli Sweet Shoppe) from the basement of the home, subject to the following conditions:

1. Standard residential appliances will be used in the kitchen.
2. Access to the business will be through the house.
3. Any customers who come to the home are to park in the driveway; not on the street.
4. There are to be no deliveries to the house having to do with the business.
5. There are to be no commercial vehicles and no advertising on vehicles.
6. Advertising will be through penny saver and/or bridal magazines with telephone number only, no address.
7. There are no special hours of operation.
8. There are to be no other employees.
9. Applicant may have up to six clients per week coming to the home for "tastings".
10. This permit shall be valid for three years and will expire on 2/1/2016, at which time it may be renewed administratively by the applicant with the Office of Code Enforcement & Development, provided there are no changes to the terms of the business, nor any complaints from neighbors regarding the business. If you do not renew your permit prior to the expiration date your permit will become null and void.
11. If you no longer wish to have this permit on the property, please notify the Town in writing that you have discontinued the use, and we will mark it null & void.

There will not be any adverse physical or environmental effect caused by granting this variance. There will be no adverse effect to the health, safety or welfare of the public caused by granting this use. This will not interfere with the character of the neighborhood. There will be very little traffic introduced into the neighborhood, and any customers will park in the driveway. This application is consistent with the requirements of Section 208-54.

Ms. Ezell seconds the motion.

Motion carries 7 - 0

2. Dan Hawthorne, owner of property located at 67 Lambeth Loop, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 C(2), to allow 6 foot fence to be located in front of the front setback (Macedon Center Road) instead of a 3 foot fence. Said property being located in a Residential B District.

Mr. Hawthorne states that according to code he has two front yards.

Mr. Place asks if the applicant has seen the comments from the DPW, which are as follows:

**The applicant is proposing to construct a fence within a Town Drainage Easement. The proposed location has been delineated by the applicant, and it does not appear that the fence will interfere with current drainage flows. We request that the applicant be required to sign an Easement Encroachment Agreement in the event that we need to work within the easement in the future. The application also shows the fence encroaching into an existing watermain easement. The applicant should provide documentation from the Monroe County Water Authority that they are ok with this.**

The applicant states that the Town is going to be mailing him the easement encroachment agreement, which he will sign and get notarized and return to the Town. He also has a call into MCWA, and they are supposed to call him back. Mr. Place states that if the applicant has any issues with getting MCWA to respond, to let Town staff in CED know, and they should be able to help him out. He is ok with these being conditions of approval.

Mr. Young asked for questions or comments from the Conservation Board. Mr. Salmon states that the Conservation Board issued comments, as follows:

**This request is similar to the request for Mr. Beckenbach at 3 Lambeth Loop, both properties have 'two' front yards. The proposed fence may minimize the noise level and visual impact. Mr. Hawthorne has strung a red tape, which we assume is the proposed location which runs between the pine trees, which will help screen visual impact of the fence. Suggest that the remaining pieces of the old split rail fence be removed as a condition.**

The applicant states that he is going to trim some of those existing trees, not remove them, just clean them up. He plans to have the existing old split rail fence removed once the new fence is up.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED has the following comments:

1. **The proposed fence is located within a Town drainage easement. An Easement Encroachment letter must be in place prior to the issuing of a building permit.**
2. **The proposed fence appears to be located partially within a Monroe County Water Authority utility easement. Approval from the Monroe County Water Authority should be provided prior to the issuing of a permit.**
3. **The existing old split rail fence should be removed before the final inspection is done on the new fence.**
4. **A building permit is to be issued within 6 months.**

Mr. Young asked for questions or comments from the audience, and there were none.

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C(2), to allow 6 foot fence to be located in front of the front setback (Macedon Center Road) instead of a 3 foot fence, subject to the following conditions:

1. The proposed fence is located within a Town drainage easement. An Easement Encroachment letter must be in place prior to the issuing of a building permit.
2. The proposed fence appears to be located partially within a Monroe County Water Authority utility easement. Approval from the Monroe County Water Authority should be provided prior to the issuing of a permit.
3. The existing old split rail fence should be removed before the final inspection is done on the new fence.
4. Applicant to obtain building permit within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

This applicant is impeded by Town Code in that the applicant has two front yards according to Code. Having a 6' fence in this location will not create an undesirable change to the character of the neighborhood. This fence will fit in nicely with what other neighbors have done in this neighborhood who have two front yards according to Code. This will add needed privacy for the applicant. There will not be any adverse physical or environmental effects caused by granting this variance, provided the applicant follows the terms of approval.

Mr. Arcarese seconds the motion.

Motion carries 7 - 0

3. Eugene Bailey, owner of property located at 50 Duncott Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-31D (1) & (3), to allow a proposed garage addition (225 sq. ft.) to the existing garage, the proposed new garage to set 64 feet from the front property line instead of 70 feet and to set 11 feet from the side property line instead of 12 feet. Said property being located in a Residential A District.

Mr. Bailey presented his application to the Board. He states that he purchased this property in June. He has a need for more storage as he has two full size vehicles and he cannot get them in the garage. He submitted into the record a letter from his neighbors at 53, 52, 51, and 40 Duncott Road stating that they have no objection to the variance being requested. He states that the elevation in the application shows that the height is 14 ½', and it may be a little more than that. They want to tie the addition into the roof and have it look right and also to not have any issues with water. They may need to go up a little bit higher so the back of the house will come in too, a little bit lower, so they can trim it out and have it look nice.

Mr. Beck states that he doesn't see any issue with that, as far as the height increase as long as the finished elevation looks the same.

Mr. Young asked for questions or comments from the Conservation Board.

Mr. Salmon states that the Conservation Board submitted comments into the record as follows:

**The proposed garage will be screened from the neighbor to the right by existing landscaping and the house of the neighbor on the left sits at an angle, so there appears there will be minimal visual of the extension to either property.**

Mr. Young asked for questions or comments from CED.

Mr. Beck states that the DPW has no concerns on this application, and CED issued comments as follows:

1. **The proposed request will have a minimal impact to the adjacent property. Therefore, the CED Dept. recommends approval of this application.**
2. **A building permit is to be issued within one year.**

Mr. Young asked for questions or comments from Attorney Place, and there were none.

Mr. Arcarese made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-31D (1) & (3), to allow a proposed garage addition (225 sq. ft.) to the existing garage, the proposed new garage to set 64 feet from the front property line instead of 70 feet and to set 11 feet from the side property line instead of 12 feet, subject to the following conditions:

1. Applicant to obtain building permit within 12 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
2. There may be a height increase as long as the elevation looks the same.

This is a minimal request and the benefit cannot be achieved in any other manner. The applicant has two large vehicles to store and needs the space. There will not be an undesirable change to the character of the neighborhood. There will not be any adverse physical or environmental effects to this property or surrounding properties caused by granting this variance. He feels that this will enhance the look the home.

Mr. Moose seconds the motion.

Motion carries 7 – 0.

**Discussion: - Minutes: 12/17/12**

Mr. Space made a motion to approve the minutes of 12/17/12, as submitted.

Mr. Moose seconds the motion.

Motion carries 6 – 0, with one abstention of Mr. Arcarese, due to absence.

There being no further business before the Board, the meeting adjourned at 7:55 PM.

Respectfully Submitted,

Lori L. Stid, Clerk