

Chairperson Michael Kunzer called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:00 PM. The members present were Michael Kunzer, Christine Kubida, Charles Buss, Tiffany Paine-Cirincione and Becky Appleman. Phil Williamson, Code Enforcement Officer, and Susie Jacobs, Town Supervisor were also present. Due to the COVID-19 pandemic and to comply with CDC social distancing, the meeting was held via video conferencing, accessible live to the public.

Chairperson Kunzer asked if there were any corrections to the minutes of January 4, 2021. Christine Kubida made a motion, seconded by Becky Appleman, to approve the minutes of January 4, 2021. All members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the Agenda.

1. Application of Matthew Dehmler is seeking an area variance for the property located at 3371 Heather Brook Lane that does not comply with the required setback. The applicant seeks relief from Section 180-17 (A) (2) to construct an above-ground pool and deck which will encroach into the required setback per the approved plans for the Heather Brook Subdivision Map, Section 1, dated May 17, 1993. Property is zoned PD- Planned Development. (Public Hearing)

Chairperson Kunzer said this application was tabled last month. Kristin and Matthew Dehmler came forward to speak before the Board. Ms. Dehmler said she and Mr. Dehmler are seeking to place a 27-foot pool 12 feet off of the back patio toward the road and 10 feet from their rear neighbor. Mr. Dehmler said the deck would be on the north side of the pool so it would not be as close to the road as the original design, and there is a distance of 21 feet from the edge of the pool to the edge of the road. Ms. Appleman asked if the pool will still be in the 10-foot easement. Mr. Dehmler said it will be in the 10-foot easement. Mr. Kunzer said 30 feet from the center of the road is the street line on the survey and another 10 feet would be the north side of the easement. Chairperson Kunzer said 41.3 feet from the house is the street line. Ms. Appleman asked how far into the easement is the proposed pool and have the applicants considered a smaller pool. Ms. Dehmler said for the amount of money they are spending they would like the 27-foot pool if possible. Ms. Kubida said the pool would be about 8 feet into the easement. Mr. Buss asked where the electric service to house comes from. Mr. Dehmler thinks the electrical service comes from Heather Brook Lane. Mr. Dehmler said the gas and sewer service come to the house on that side of the house and it runs closer to the front of the lot. Mr. Buss asked if they would be willing to install a portable pool. Ms. Dehmler said she would prefer a smaller pool or move the pool closer to the house rather than a portable pool. Mr. Dehmler said he does not want to be too close to the house with that much water.

Chairperson Kunzer asked if there were any more comments from the public. No more issues were brought forward. Chairperson Kunzer closed the public hearing at 7:16 PM.

Chairperson Kunzer said the pool is completely out into the 40-foot setback where you are not supposed to put any structure according to Town Code 180-36, and it is in the 10-foot utility easement which means at any time the utility that has lines in that easement wanted to dig there, the pool would have to be removed. Chairperson Kunzer said the Dehmlers could be faced with a civil lawsuit if a neighbor or anyone else had an issue with the placement of the pool. Ms. Paine-Cirincione said this is most of the setback and could set a tough precedent. Chairperson Kunzer said the Dehmlers are welcome to come before the Zoning Board with a new configuration that would not be in the 40-foot setback. Ms. Appleman said it is hard with the size of the yard to have a patio, a pool, and a deck.

Chairperson Kunzer asked if there were any more comments from the board. No more issues were brought forward.

Chairperson Kunzer read the Town of Walworth Zoning Board of Appeals Variance Determination Resolution:

With regard to Application at 3371 Heather Brook Lane for an area variance requesting relief from Town Code Section 180-17 (A) (2), PD Districts: Planned Development.

WHEREAS, a public hearing with regard to said Application was duly advertised and held, and

WHEREAS, the Zoning Board of Appeals has taken into consideration the benefit to the applicant as weighted against the potential detriment of the health, safety and welfare of the neighborhood or community in relation to such Variance; and

WHEREAS, the Zoning Board of Appeals has considered all relevant information, now therefore, be it

RESOLVED, that the Zoning Board of Appeals make the following finding of fact regarding the variance:

UNDESIRABLE CHANGE IN THE NEIGHBORHOOD – Will the dimensional alteration being requested result in a structure or a configuration that will be seriously out of place in the neighborhood?

Yes X No _____

There are no other pools in the area that are entirely in the 40-foot setback.

ALTERNATIVE TO VARIANCE – Are there alternatives open to the applicant that are lawful under the zoning that have been considered?

Yes _____ No X

The parcel is such that any standard size pool would require a variance.

SUBSTANTIALITY – In the judgement of the board, will the nonconformity being proposed be too great, as compared to the lawful dimensions allowed by the zoning law?

Yes X No _____

The entire pool (100% of it) would be out into the 40-foot minimum setback.

IMPACT ON ENVIRONMENT – Will the proposed dimensional change(s) impact drainage, traffic circulation, dust, noise, odor, and/or impact ability of emergency responders to provide necessary services, among others?

Yes _____ No X

This should not have a major impact and only slight impacts on noise, smell, and possibly a negative traffic impact.

SELF-CREATED DIFFICULTY – (The board must understand that a self-created difficulty, as it relates to area variance applications, is not the same as self-created hardship, as set forth with respect to a use variance).

Will the benefit to the applicant be a detriment to the health, safety, and welfare of the neighborhood or community if the area variance is granted?

Yes X No _____

The pool being placed out toward the road causes safety issues.

AND, BE IT FURTHER, RESOLVED, that based upon said finds, the Zoning Board of Appeals hereby determined that said variance is denied.

Tiffany Paine-Cirrincone made a motion, seconded by Christine Kubida, to deny Kristin and Matthew Dehmler the requested area variance.

Roll Vote:	Chairperson Kunzer	Aye
	Becky Appleman	Aye
	Marlene Hall	Aye
	Tiffany Paine-Cirrincone	Aye
	Charles Buss	Aye

Chairperson Kunzer addressed the second item on the Agenda.

2. Application of Joseph Mastin is seeking an area variance for the property located at 3757 Orchard Street that does not comply with the required setback. The applicant seeks relief from Section 180-12 (G) (2) to construct a car port which will encroach into the required side setback. Property is zoned: R-Residential. (Public Hearing)

Joseph Mastin came forward to speak before the Board. Chairperson Kunzer opened the public hearing at 7:31 PM. Mr. Mastin said he is proposing to put a car port on the side of his garage. Mr. Mastin said the distance from the garage to the side property line is 20 feet, the driveway at the side of the garage is 16 feet, and he would like to put a car port to cover the driveway on the side of the garage. Mr. Mastin said the proposed car port will be roughly 5 feet back from the front of the garage and extend 24 ½ feet down the side of the garage. Mr. Mastin said the car port is just a metal roof without walls and a temporary type of structure which can be removed. Ms. Kubida asked if the structure will be attached to the garage. Mr. Mastin said he will attach the car port to the garage to anchor that side and the other side he will anchor into the dirt. Ms. Kubida asked how far the car port will be from the side property line. Mr. Mastin said it will be about 4 feet. Chairperson Kunzer asked what the car port will be used for. Mr. Mastin said he will put cars and ladders in the car port.

Michelle Frederick of 3765 Orchard Street came forward to speak before the Board. Ms. Frederick said her gas, water and sewer lines enter her house on the side that faces Mr. Mastin, and she asked if there will be enough room for an excavator to access and repair the lines if necessary. Ms. Frederick is concerned with drainage and asked what Mr. Mastin will do with the runoff that will come off of the car port. Ms. Frederick said she has an issue with looking out her window and seeing a car port.

Ms. Kubida asked if there is anything in place for drainage from the car port. Mr. Mastin said the roof of the car port will be an A-frame style so it will pitch to the exterior garage wall and toward the lot line. Mr. Mastin said it is the same drainage as what hits the driveway at this time. Chairperson Kunzer asked Mr. Mastin if he has noticed any water building up on that lot line. Mr. Mastin said the backyards in his neighborhood are wet all the time. Mr. Mastin said he can run a gutter along the side of the car port and funnel the water south into the back yard.

Ms. Appleman asked if Mr. Mastin considered a narrower canopy for the car port. Mr. Mastin said he chose the size of car port that will fit over the existing driveway.

Mr. Williamson said the Mr. Mastin put in his application that he is requesting relief from Town Code 180.10 (Y) but the correct Town Code he needs relief from is 180-12 (G) (2).

Chairperson Kunzer asked if there were any more comments from the public. No more issues were brought forward. Chairperson Kunzer closed the public hearing at 7:43 PM.

Ms. Kubida asked if a stipulation could be applied to the variance if it is granted for the drainage. Chairperson Kunzer said conditions can be applied. Chairperson Kunzer said if the neighbor to the north had an issue with her utilities, there should be no need to go into Mr. Mastin's yard.

Chairperson Kunzer read the Town of Walworth Zoning Board of Appeals Variance Determination Resolution:

With regard to Application at 3757 Orchard Street for an area variance requesting relief from Town Code Section 180-12 (G) (2), Yard requirements.

WHEREAS, a public hearing with regard to said Application was duly advertised and held, and

WHEREAS, the Zoning Board of Appeals has taken into consideration the benefit to the applicant as weighted against the potential detriment of the health, safety and welfare of the neighborhood or community in relation to such Variance; and

WHEREAS, the Zoning Board of Appeals has considered all relevant information, now therefore, be it

RESOLVED, that the Zoning Board of Appeals make the following finding of fact regarding the variance:

UNDESIRABLE CHANGE IN THE NEIGHBORHOOD – Will the dimensional alteration being requested result in a structure or a configuration that will be seriously out of place in the neighborhood?

Yes _____ No X

There are other car ports in the neighborhood.

ALTERNATIVE TO VARIANCE – Are there alternatives open to the applicant that are lawful under the zoning that have been considered?

Yes _____ No X

The applicant only has 5 feet on the north side of his house.

SUBSTANTIALITY – In the judgement of the board, will the nonconformity being proposed be too great, as compared to the lawful dimensions allowed by the zoning law?

Yes X No _____

The applicant is requesting a 73% variance.

IMPACT ON ENVIRONMENT – Will the proposed dimensional change(s) impact drainage, traffic circulation, dust, noise, odor, and/or impact ability of emergency responders to provide necessary services, among others?

Yes _____ No X

This will not cause a major impact.

SELF-CREATED DIFFICULTY – (The board must understand that a self-created difficulty, as it relates to area variance applications, is not the same as self-created hardship, as set forth with respect to a use variance).

Will the benefit to the applicant be a detriment to the health, safety, and welfare of the neighborhood or community if the area variance is granted?

Yes _____ No X

This will only be a slight impact.

CONDITIONS: The Zoning Board of Appeals finds that the following condition is necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition: A gutter will be placed on the north side of the car port and water will be directed westerly.

AND, BE IT FURTHER, RESOLVED, that based upon said finds, the Zoning Board of Appeals hereby determined that said variance is approved.

Becky Appleman made a motion, seconded by Christine Kubida, to approve Joseph Mastin the requested area variance.

Roll Vote:	Chairperson Kunzer	Aye
	Becky Appleman	Aye
	Marlene Hall	Aye
	Tiffany Paine-Cirrincone	Aye
	Charles Buss	Aye

Chairperson Kunzer adjourned the meeting at 7:59 PM.

Respectfully submitted,

Barbara Goulette, Clerk

DRAFT