

Chairperson Michael Kunzer called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:07 PM. The members present were Michael Kunzer, Becky Appleman, Tiffany Paine-Cirincione, Christine Kubida and Charles Buss. Phil Williamson, Code Enforcement Officer; and Donald Young, Attorney for the Town (Young Law of WNY) were also present.

Chairperson Kunzer asked if there were any corrections to the minutes of December 2, 2019. No issues or concerns were brought forward. Charles Buss made a motion, seconded by Tiffany Paine-Cirincione, to approve the minutes of December 2, 2019 as presented. All members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the Agenda.

1. Application of Joseph Villnave seeking a use variance for the property located at 4309 Ontario Center Road that does not comply with the required zoned use. The applicant seeks relief from Section 180-10 (A) (1), RR1 Districts: Single Family Residential. Property is zoned RR1- Rural Residential 1. (Public Hearing)

Chairperson Kunzer opened the public hearing at 7:09 PM.

Mr. Villnave of 4311 Ontario Center Road came forward to speak before the Board. Mr. Villnave said he has a 2-acre parcel that backs up to the existing gun club and two 2-family residence across from the parcel. Mr. Villnave said there is also a third 2-family residence at the main entrance that accesses these properties. Mr. Villnave would like to build a 2-family residence on the 2-acre parcel in this area where he also presently lives. Mr. Villnave said it is not a desirable lot to build a single-family home with 3 duplexes in the vicinity and the gun club which has no set hours of operation.

Mr. Kunzer asked if there are other single-family residences in the area. Mr. Villnave said there is one in the area and there are some on the main part of Route 350, but they are a little bit farther from the gun club. Mr. Buss asked if Mr. Villnave was looking to build and sell the house and property, or to build and use it as rental property. Mr. Villnave he is looking to build and use it as a long-term rental property. Ms. Kubida asked Mr. Villnave if he has contacted a realtor to see what the possibilities are for a single-family residence to support that it would be easier to sell a multi-family home. Mr. Villnave said he knows what the price would be to build a single-family house and the price he would get for it would be a loss, but a multi-family house could be sold as an income property. Mr. Kunzer asked when the most recent duplex was built. Mr. Villnave said it was built in 2012 and he got an area variance from the Walworth Zoning Board. Ms. Paine-Cirincione asked Mr. Villnave if he lives at 4309 Ontario Center Road. Mr. Villnave said he lives at 4311 Ontario Center Road and he owns the 2-acre parcel in this application and 1 other duplex in the vicinity at 4317/4319 Ontario Center Road.

Mr. Young said the applicant, Mr. Villnave, has filled out an area variance application instead of the required use variance application for this proposed project. Mr. Young said the factors for a use variance are different that the factors for an area variance, one of which is that you need actual written financial evidence that the applicant cannot realize a reasonable return without a variance. Chairperson Kunzer said that the Board does not have the written evidence in front of them at this time.

Chairperson Kunzer asked if there were any more comments from the Board. No more issues were brought forward. Chairperson Kunzer asked if there were any more comments from the public. No more issues were brought forward. Mr. Young asked what the current use of the property is today. Chairperson Kunzer said it is a building pad on a vacant lot.

Chairperson Kunzer closed the public hearing at 7:20 PM. Chairperson Kunzer said the application should be tabled to give Mr. Villnave an opportunity to review the Town Code in regards to a Use Variance. All members were in favor.

Chairperson Kunzer addressed the second item on the Agenda.

2. Application of Adam and Lori Schreiber seeking an area variance for the property located at 582 Haley Road that does not comply with the required setback. The applicant seeks relief from Section 180-10 (F) (1) (2), Setback Requirements. Property is zoned RR1- Rural Residential 1. (Public Hearing)

Chairperson Kunzer opened the public hearing at 7:24 PM.

Adam and Lori Schreiber of 582 Haley Road came forward to speak before the Board. Ms. Schreiber said she and Mr. Schreiber converted their previously existing attached garage into living space so now they would like to add a 1-car garage to the end of the house. Ms. Schreiber said the garage we be located where the existing shed is now and would be a nicer looking structure. Ms. Schreiber said there is a barrier between them and the neighbor so esthetically the garage would not change anything for them. The neighbor's house is closer to the road than her house so the 5 feet that the garage would stick out in front of her house would still be farther from the road than the neighbor's house.

Ms. Appleman asked if the applicants are looking for 6.3 feet relief on the side setback. Chairperson Kunzer said they are asking for 6.3 feet on the side and 2 feet into the 60-foot front right-of-way. Chairperson Kunzer asked who owns the arborvitae hedgerow between the properties. Ms. Schreiber said they are on the property line and they are not sure who owns them. Chairperson Kunzer said the neighbor's garage is about 13.5 feet from the property line so this would result in 20 feet between the garages if the variance is granted. Ms. Schreiber said that the Walworth Building Inspector, Norman Druschel, suggested that the complete garage would be built with fireboard for safety. Ms. Kubida asked if the arborvitae would be replaced if damaged to maintain the privacy between the properties. Ms. Schreiber said they would be replaced so there is no whole in the hedgerow. Ms. Appleman asked if there will be room to walk between the garage and the hedgerow. Mr. Schreiber said there will be 2 to 4 feet between them. Ms. Kubida asked when the original garage was converted to living space. Ms. Schreiber said it was converted 4 years ago. Mr. Buss asked if the edge of the proposed garage would be about where the edge of the existing shed is now. Ms. Schreiber said it would. Chairperson Kunzer said the neighbor's house is 50.7 feet from the road per the survey map.

Chairperson Kunzer asked if there were any more comments from the Board. No more issues were brought forward. Chairperson Kunzer closed the public hearing at 7:36 PM.

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

With regard to Application at 582 Haley Road for an area variance requesting relief from Town Code Section 180-10 (F) (1) (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:

- 1) The granting of the variance **will not** result in an undesirable change to the character of the neighborhood or a detriment to nearby properties since there is already a shed where the garage addition will go.
- 2) The variance being sought by the applicant **cannot** be achieved by some other feasible alternative because the house is toward the left side of the lot.
- 3) The area variance **is not** substantial since relief sought is less than half of the required setbacks.
- 4) The variance **will not** have a negative effect or impact on the physical or environmental conditions in the neighborhood since there are similar structures in the neighborhood and a garage addition will be better than the existing shed.
- 5) The difficulty resulting in the request for the variance **was** self-created since the applicants turned an existing garage into living space, but this factor is merely a consideration and is not necessarily determinative.

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

Charles Buss made a motion, seconded by Beck Appleman, to grant Adam and Lori Schreiber the requested area variance.

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

Motion carried.

Chairperson Kunzer asked if there was any other business to be brought before the Board.

Ms. Paine-Cirrincone asked if the variance for building a rental property is the same as an Area Variance. Mr. Williamson said Mr. Villnave needs to submit a Use Variance Application to the Zoning Board of Appeals since he plans to build a multi-family home in a district zoned for single-family homes. Discussion ensued.

Chairperson Kunzer adjourned the meeting at 7:57PM.

Respectfully submitted,

Barbara Goulette, Clerk