

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, Becky Appleman, Tiffany Paine-Cirincione, Christine Kubida and Charles Buss. Phil Williamson, Code Enforcement Officer; and Norm Druschel, Building Inspector 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 May 4, 2020. No issues or concerns were brought forward. Becky Appleman made a motion, seconded by Tiffany Paine-Cirincione, to approve the minutes of May 4, 2020 as presented. All members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the Agenda:

1. Application of Eric Brassler of 399 Mildahn Road seeking an area variance for the property located at 399 Mildahn Road that does not comply with the required side setback. The applicant seeks relief from Section 180-12 (G) (2), Setback Requirements. Property is zoned R-Residential. (Public Hearing)

Eric Brassler came forward to speak before the Board. Mr. Brassler said they have a paved driveway on the side of their garage, and he is proposing to build a car port off the side of the garage. Ms. Appleman asked how many feet there are between the planned car port and his fence, and is the fence on the property line. Mr. Brassler said it will be approximately 4 feet from the fence and the fence is just inside the property line. Ms. Kubida asked if Mr. Brassler will be extending the back portion of the car port behind the house approximately 14 feet and can the car port be placed behind the garage. Mr. Brassler said it will be about 14 feet behind the garage, but he can not place it behind the garage because it is not paved there. Ms. Paine-Cirincione asked if the car port will be only over the paved area. Mr. Brassler said it would. Chairperson Kunzer asked what material the car port will be made of. Mr. Brassler said it will be made with would posts and a plywood roof. Chairperson. Kunzer asked if it would drain toward the fence and neighbors. Mr. Brassler said he will put gutters on the car port and tie it into the piping system on his backyard for drainage, and it will drain to the field next door to the west. Ms. Appleman asked how wide is the proposed car port. Mr. Brassler said it is about 12 feet. Chairperson Kunzer said it looks to be 16.1 feet from the garage to the property line so a 12-foot car port it would be about 4.1 feet from the property line. Chairperson Kunzer said Mr. Brassler is requesting a 75% variance which is significant.

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 comments from the public. No issues were brought forward. Chairperson Kunzer closed the public hearing at 7:09 PM.

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

With regard to Application at 399 Mildahn Road 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:

- 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 blacktop where the car port would be placed.
- 2) The variance being sought by the applicant **cannot** be achieved by some other feasible alternative because the driveway is already there.
- 3) The area variance **is** substantial since it is a 75% variance.
- 4) The variance **will not** have a negative effect or impact on the physical or environmental conditions in the neighborhood since the applicant is going to address drainage and not let it go onto the neighbor.
- 5) The difficulty resulting in the request for the variance **was** self-created because the applicant wants a car port, 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 Tiffany Paine-Cirincione, to grant Eric Brassler the requested area variance.

Roll Vote:	Chairperson Kunzer	Aye
	Becky Appleman	Aye
	Christine Kubida	Aye
	Tiffany Paine-Cirincione	Aye
	Charles Buss	Aye

Motion carried.

Chairperson Kunzer addressed the second item on the Agenda.

2. Application of Frank Ridley of 1716 Waterford Road seeking and area variance for the property located at 1716 Waterford Road that does not comply with the required setback. The applicant seeks relief from Section 180-17 (A) (2), Setback Requirements. Property is zoned PD-Planned Development. (Public Hearing)

Norm Druschel came forward to speak before the Board. Mr. Druschel said that the contractor on this project proposes to build an 8' x 8' deck on the front of the house with a ramp coming up to the side. Mr. Druschel said the house is 4 feet behind the required setback so the 8' x 8' deck would extend 4 feet into the required setback, and the extra 4 feet would allow a person to come up the ramp, open the screen door, and give them room to access the front of the house with a wheelchair. Mr. Buss asked if the deck will meet ADA requirements. Mr. Druschel said it will. Chairperson Kunzer said this is in a Planned Development so the required front setback is 30 feet. Ms. Appleman asked if the ramp will extend to the existing driveway. Mr. Druschel said it will go from the side of the deck to the driveway. Chairperson Kunzer asked if there will be a railing on the deck since grade of the front yard is significant. Mr. Druschel said there will be a railing and the ramp extends off the side of the deck because of the grade.

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 comments from the public. No issues were brought forward. Chairperson Kunzer closed the public hearing at 7:22 PM.

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

With regard to Application at 1716 Waterford Road for an area variance requesting relief from Town Code Section 180-17 (A) (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 wheelchair access is needed and there are other such structures in the neighborhood.
- 2) The variance being sought by the applicant **cannot** be achieved by some other feasible alternative because the ramp is needed for wheelchair accessibility.
- 3) The area variance **is not** substantial since relief sought is only 4 feet into the minimum setback.
- 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.
- 5) The difficulty resulting in the request for the variance **was not** self-created since a medical condition requires it, 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
	Christine Kubida	Aye
	Tiffany Paine-Cirincione	Aye
	Charles Buss	Aye

Motion carried.

Chairperson Kunzer addressed the third item on the Agenda.

3. Application of Michael Steffen of 1504 Plank Road seeking an area variance for the property located at 1504 Plank Road that does not comply with the required setback. The applicant seeks relief from Section 180-29 Setback Requirements. Property is zoned RR1-Residential 1. (Public Hearing)

Michael Steffen of 5717 Lincoln Road came forward to speak before the Board. Mr. Steffen said they purchased the home at 1504 Plank Road to remodel it. Mr. Steffen said there is not a lot of living space in the downstairs and it needs an addition. Mr. Steffen said the addition off the front of the home will give the correct needed roof pitches, and the side walls of the house are concrete and structural, so the front is the best option for an addition. Mr. Steffen said his son will take occupancy of the house. Ms. Kubida asked if a future garage mentioned in the plans will be attached to the house. Mr. Steffen said it would be able to have a 2-car garage attached to the east side of the house. Ms. Paine-Cirincione asked how many feet the

addition will need off the front of the house. Mr. Steffen said it will be 12 feet. Chairperson Kunzer said the house is 54.7 feet from the right-of-way and the required setback is 75 feet so the house is already encroaching on the front setback. Ms. Appleman asked if the addition will be a single story. Mr. Steffen said it will and they have done some remodeling to the home. Chairperson Kunzer said the setback will be 42 feet if approved. Mr. Druschel said there is another existing colonial home down the road that is also close to the road.

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 comments from the public. Mr. Villnave of 4311 Ontario Center Road came forward to speak before the Board. Mr. Villnave said he owns the property directly across from this property, and he is happy to see improvements being done. 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 7:53 PM.

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

With regard to Application at 1504 Plank Road for an area variance requesting relief from Town Code Section 180-29, 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 the addition is going to enhance the neighborhood.
- 2) The variance being sought by the applicant **cannot** be achieved by some other feasible alternative because building toward the road is about the only option.
- 3) The area variance **is not** substantial since relief sought is the least amount the applicant can use.
- 4) The variance **will not** have a negative effect or impact on the physical or environmental conditions in the neighborhood since it will be an improvement to the property.
- 5) The difficulty resulting in the request for the variance **was** self-created but the applicant wants to create some curb appeal, and 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.

Christine Kubida made a motion, seconded by Beck Appleman, to grant Michael Steffen the requested area variance.

Roll Vote:	Chairperson Kunzer	Aye
	Becky Appleman	Aye
	Christine Kubida	Aye
	Tiffany Paine-Cirincione	Aye
	Charles Buss	Aye

Motion carried.

Chairperson Kunzer addressed the fourth item on the Agenda.

4. 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)

Mr. Villnave said he submitted statements from 2 realtors, breakdowns to build 2 types of homes, and a listing for an existing ranch home that went up for sale in front of the property in question that has been on the market for about \$150,000 for a few weeks. Ms. Kubida said the property that has been on the market for a few weeks is currently contingent, so it did sell rather quickly. Mr. Villnave said he also sent videos demonstrating the noise that comes from the neighboring gun club. Mr. Villnave said he would take a loss if he built a single-family house as opposed to the long-term income he could generate from a rental. Mr. Villnave said that one of the rentals could be used by his parents as they get older. Ms. Appleman asked if Mr. Villnave has tried to sell this property. Mr. Villnave said he has not, but he recently purchased 2 lots which have not been approved, a 2.5-acre lot for paid \$10,000 and a similar sized lot for \$17,000. Mr. Villnave estimates that the property at 4309 Ontario Center Road would sell for \$10,000. Ms. Appleman asked if the Board is required to have proof of hardship. Chairperson Kunzer asked if the proposed duplex would be built on a 2-acre lot and would it be similar to the existing duplex that was built in 2012. Mr. Villnave said it would be on a 2-acre lot and similar to the existing duplex at about 2600 square feet. Chairperson Kunzer asked if the gun club was at its present site when he bought the property. Mr. Villnave said it was, but the gun club had restricted hours of operation at that time. Ms. Appleman asked if Mr. Villnave could build a small ranch house to rent. Mr. Villnave said rental income on a 2-family house can justify the cost of taxes, building and maintenance, whereas a single-family house will not generate as much income and he would take a loss every

month. Mr. Villnave said he lives in and maintains one of the duplexes that he owns, and there are 3 existing duplexes in the area. Ms. Kubida asked if Mr. Villnave had the time to market the lot and show that he would suffer a significant loss. Mr. Villnave said he can put the lot up for sale for \$50,000 to show hardship. Mr. Villnave said the realtors told him that he should not build a single-family house and they could not put a value on the lot. Chairperson Kunzer said Mr. Villnave's intended use is not allowed by Town Law so he needs to show hardship in dollars and cents by attempting to sell the lot for a fair market value. Chairperson Kunzer read the following from the Zoning Board of Appeals statute under Reasonable Return: The "dollars and cents proof" rule was again enunciated in a Court of Appeals case which held that "a landowner who seeks a use variance must demonstrate factually, by dollars and cents proof, an inability to realize a reasonable return under existing permissible uses."

Mr. Villnave said he will talk to a realtor and find out how much the lot is worth, but he will not sell it for \$20,000 or less. Mr. Villnave asked how long he will need to market the lot. Mr. Williamson said Mr. Villnave should list with a realtor for at least their minimum listing period at a reasonable price.

Chairperson Kunzer asked the Board if they would like to table this application. All members were in favor of tabling the application.

Chairperson Kunzer adjourned the meeting at 8:30 PM.

Respectfully submitted,

Barbara Goulette, Clerk