

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, Tiffany Paine-Cirincione, Christine Kubida, and Becky Appleman. Phil Williamson, Code Enforcement Officer; and Brett Malafeew, Assistant Building Inspector were also present. Charles Buss, Zoning Board member, was not present. The meeting was held at the Walworth Town Hall, accessible live to the public.

Chairperson Kunzer asked if there were any corrections to the minutes of November 7, 2022. Becky Appleman made a motion, seconded by Christine Kubida, to approve the minutes of November 7, 2022. All other members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the agenda.

1. Application of John Nadig of 5105 Fosdick Road seeking an area variance for relief from Section 180-21(B) No separate building shall be erected closer to the main building than five feet and not closer to the side yard line than 15 feet in RR-1. Property is zoned RR1-Rural Residential 1. (Public Hearing)

Chairperson Kunzer said that Mr. Nadig was present to speak before the Board previously in regard to this application and the Board requested that Mr. Nadig have a survey to determine the distance of the shed from the property line. Mr. Kunzer said the Board received a letter from BME Associates:

October 11, 2022

Mr. John Nadig
5105 Fosdick Road
Walworth, NY 14568

Re: 5105 Fosdick Road – Distance from Building to Property Line Project: 8901-112

Dear John,

We, BME Associates conducted a field survey on October 10, 2022 at 5105 Fosdick Road in the Town of Walworth. We have determined that the southwest building corner is 1.0' north of the south property line and the southeast building corner is 1.5' north of the south property line. Therefore, the entire building is completely on your property.

Sincerely,
Gregory Bell, LS
Survey Dept. Manager
BME Associates

John Nadig of 5105 Fosdick Road came forward to speak before the Board. Mr. Nadig said the engineer did a survey and the shed is on his side of the property line. Ms. Kubida asked if Mr. Nadig spoke with the neighbor since he has the survey. Mr. Nadig said the neighbor is okay with the location of the shed. Chairperson Kunzer said the applicant is asking for 14 feet of relief from the 15-foot setback requirement. Chairperson Kunzer asked if there were any questions from the Board, Town Staff, or Public. No more issues were brought forward. Chairperson Kunzer closed the public hearing at 7:05pm.

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

With regard to Application at 5105 Fosdick Road for an area variance requesting relief from 180-21(B) Accessory buildings.

WHEREAS, the Zoning Board has 1) duly advertised and held a public hearing, 2) has considered all relevant information, and 3) has considered the potential benefit to the applicant versus the potential detriment to the neighborhood or community in relation to such Variance(s).

NOW, THEREFORE, BE IT, RESOLVED, that the Zoning Board of Appeals makes the following findings of fact:

1. The variance requested **is** substantial since it is 14 feet of relief from the required 15-foot setback.
2. The purpose of the variance **cannot** be achieved by some other feasible alternative since the shed is in place.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district.

4. The variance **will not** result in an undesirable change to the character of the neighborhood or a detriment to nearby properties since it is very rural with no nearby neighbors.
5. The difficulty relating to the variance **was** self-created, and it is most always self-created.

AND, BE IT FURTHER, RESOLVED, that based upon the above findings, the Zoning Board of Appeals hereby **approve** the variance.

Christine Kubida made a motion, seconded by Becky Appleman, to grant John Nadig the requested area variance. All members were in favor. Motion carried.

Chairperson Kunzer addressed the second item on the agenda.

2. Application of Norma Vetter of 625 Beaver Creek seeking an area variance for relief from Section 180-17(A)(2) Setback Requirements. Property is zoned PD-Planned Development. (Public Hearing)

Norma Vetter of 625 Beaver Creek and Kevin Tellier of Marlock Electric Inc came forward to speak before the Board. Mr. Tellier said the applicant would like to install a generator on the side of the house where her gas meter is and electric service is going into the house, so it makes the most sense to install it on that side of the house. Mr. Tellier said there is a 7-foot requirement for the setback and the proposed location of the generator would be 5 feet from the property line, so they are lacking 2 feet. Mr. Tellier said the generator would be installed directly in front of the gas meter with the required 3-foot distance from it.

Chairperson Kunzer said the survey map shows that the house is 10 feet from the property line on the back of the house on that side and the front of the house is a little further from the line so there is a little more room. Ms. Appleman asked if a generator is a structure. Mr. Williamson said the Town Code reads a structure is anything that is attached to the ground, sitting on the ground, etc., and hard piping the leads to the gas meter. Mr. Williamson said the normal setbacks are not the same in all Planned Developments, so the setbacks are shown on the approved site plan, and in this case, it is 7.5 feet.

Ms. Kubida asked if the generator will be 5 feet from the window. Mr. Tellier said Ms. Vetter will install a block window in the basement if the Board approves the variance. Mr. Williamson said the Building Inspector is satisfied that generator permit is compliant with the building and fire code so the Board only needs to address the required setback from the property line.

Chairperson Kunzer asked the applicant if she loses power often. Ms. Vetter said she does not but when she does lose power for more than 24 hours the sump pump fills, and the basement has flooded.

Chairperson Kunzer asked if there were any questions from the Board. No more issues were brought forward. . Chairperson Kunzer closed the public hearing at 7:30pm.

Mr. Williamson said the Zoning Board can write a letter to the Town Board to clarify the definition of a generator in the Town Code since the definition may need to be updated. Ms. Kubida said the Zoning Board can approve this application with the condition that the generator be installed per manufacture specifications.

Mr. Malafeew said the applicant plans to have the generator installed in front of the gas meter instead of the bump-out on the house to minimize the required variance, but they will have to replace the basement window with glass block at an increased expense to the applicant.

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

With regard to Application at 625 Beaver Creek for an area variance requesting relief from 180-17(A)(2) Setback Requirements.

WHEREAS, the Zoning Board has 1) duly advertised and held a public hearing, 2) has considered all relevant information, and 3) has considered the potential benefit to the applicant versus the potential detriment to the neighborhood or community in relation to such Variance(s).

NOW, THEREFORE, BE IT, RESOLVED, that the Zoning Board of Appeals makes the following findings of fact:

1. The variance requested **is not** substantial since the generator needs to be placed per the manufacturer's installation instructions.

2. The purpose of the variance **cannot** be achieved by some other feasible the generator has to be placed there.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district.
4. The variance **will not** result in an undesirable change to the character of the neighborhood or a detriment to nearby properties.
5. The difficulty relating to the variance **was** self-created because the applicants want a generator, and it is most always self-created.

AND, BE IT FURTHER, RESOLVED, that based upon the above findings, the Zoning Board of Appeals hereby **approve** the variance.

Tiffany Paine-Cirincione made a motion, seconded by Becky Appleman, to grant Norma Vetter the requested area variance with the condition that the generator is placed no closer than 18 inches to the house and 5 feet from any opening per manufacturer's installation instructions. All members were in favor. Motion carried.

Chairperson Kunzer said this will be Phil Williamson's last Zoning Board meeting and said that he appreciated working with Phil, and he did a great job for the Town. Chairperson Kunzer said he looks forward to working with Bret Malafeew in the future. All Board members agreed and thanked Phil for his assistance. Mr. Williamson thanked the Board.

Chairperson Kunzer asked the Board if they received and reviewed the Zoning Board calendar for 2023. No issues were brought forward. Tiffany Paine-Cirincione made a motion to approve the minutes. All members were in favor. Motion carried.

Becky Appleman made a motion, seconded by Christine Kubida, to adjourn the meeting. Chairperson Kunzer adjourned the meeting at 7:30 PM.

Respectfully submitted,

Barbara Goulette, Clerk