

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-Cirrincone, Christine Kubida, and Becky Appleman. Brett Malafeew, Code Enforcement Officer was 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 February 6, 2023. Tiffany Paine-Cirrincone made a motion, seconded by Becky Appleman, to approve the minutes of February 6, 2023. All members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the agenda.

**1. Application of Kyle Reynolds of 2 Pembroke Drive, Penfield, NY seeking an area variance at 1497 Route 441, Town of Walworth, and County of Wayne. Property is zoned R-Residential (Public Hearing)**

Chairperson Kunzer said Mr. Reynolds has been before the Zoning Board twice and the Planning Board once for this application.

Chairperson Kunzer opened the public hearing at 7:03 PM.

Kyle Reynolds of 2 Pembroke Drive, Penfield, NY came forward to speak before the Board. Mr. Reynolds said the Walworth Planning Board preapproved the site plan for 1497 Route 441. Mr. Reynolds said he moved the house to the west 10 feet to create more of a swale on that side of the property and he moved the pole barn up. Chairperson Kunzer said Mr. Reynolds will not need a variance for the distance of the pole barn to the house since it the barn is now 30 feet from the house.

Chairperson Kunzer asked Mr. Reynolds if he received any NY State permits for the driveway. Mr. Reynolds said he was waiting for Zoning Board approval.

Ms. Kubida said she spoke with the Planning Board Chairperson, Dennis Landry, and he advised the Zoning Board to look at whether the house could shift to the west 5 more feet so there would not be a need for a variance on that side of the property. Ms. Kubida said that would put the barn in front of the attached garage and would affect the 30-foot requirement for an accessory structure in a front yard. Chairperson Kunzer said that he doesn't see moving the house any more is necessary. Mr. Malafeew said moving the house farther west create a problem with the barn in the front yard.

Chairperson Kunzer asked if there were any comments from the public.

Charles and Lorraine Rieck of 1485 Route 441 came forward to speak before the Board. Mr. Rieck his property is adjacent to the lot in this application and he doesn't understand how the applicant is going to swale the water. Ms. Rieck asked how tall the proposed barn is. Mr. Reynolds said the pole barn is going to be shorter than the house. Ms. Rieck said there is standing water on Mr. Reynolds' property and her septic is close to his lot line. Ms. Kubida said the applicant is putting in swales to divert the water. Mr. Malafeew said he is building a house and grading the property so it should help the water issue.

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 7:17 PM.

Chairperson Kunzer said the applicant is looking for a 10-foot side setback relief for the house on the east side and a 7.6-foot side setback relief on the west side of the property.

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

With regard to Application at 1497 Route 441 for an area variance requesting relief from 180-12(G)(2) Yard requirements and 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 approximately 50%.

2. The purpose of the variance **cannot** be achieved by some other feasible alternative since all alternatives have been discussed and addressed.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district since environmental conditions should improve.
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, and it is most always self-created, by developing the site.

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 Tiffany Paine-Cirincione, to grant Kyle Reynolds the requested area variance. All members were in favor. Motion carried.

Ms. Rieck asked if the Town of Walworth has a ratio of how much building you can put on a lot. Mr. Malafeew said it is 25% and Mr. Reynolds is well within the requirement.

Chairperson Kunzer addressed the second item on the agenda.

## **2. Application of Derek Lincoln of 407 Mildahn Road seeking an area variance at 407 Mildahn Road, Town of Walworth, and County of Wayne. Property is zoned R-Residential (Public Hearing)**

Derek Lincoln of 407 Mildahn Road came forward to speak before the Board. Mr. Lincoln said he is requesting a variance to build a garage on his property. Ms. Appleman asked if Mr. Lincoln plans to take down the existing shed. Mr. Lincoln said he is. Ms. Appleman asked Mr. Lincoln why he doesn't push the garage back so it is even with the house. Mr. Lincoln said he has a garden and sidewalk in front of the house and wants it to look good cosmetically, and the yard goes uphill so moving the garage back would be an issue. Ms. Kubida said if the garage is in front of the primary structure, the Town Code states that it must 30 feet from the house. Chairperson Kunzer said the front stoop does not qualify as part of the structure since it is not attached to the house. Chairperson Kunzer has the option of moving the garage back 4 feet, build a shorter garage, or put a breezeway between the house and garage so it would be an attached garage and then could be in front of the house 4 feet. Mr. Malafeew said Mr. Lincoln is looking for 4 feet of relief into the front yard with 90% of the garage being in the side yard, and it fits the character of the neighborhood with the garage in front of the house. Mr. Lincoln said he plans to connect the garage to the house in the future with a breezeway, but the expense may be an issue at this time. Mr. Malafeew said the breezeway could be just a roof tied to the house. Mr. Lincoln agreed to create a breezeway. Chairperson Kunzer said Walworth Town Code 180-21(A) does not apply to this application since the breezeway will be added.

Chairperson Kunzer asked the Board if they had any more questions for the applicant. No 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 407 Mildahn Road for an area variance requesting relief from 180-12(G)(2) Yard requirements and 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 the structure needs to be 15 feet from the side property line and the applicant wants to be 5 feet from the line.
2. The purpose of the variance **cannot** be achieved by some other feasible alternative since a normal size garage requires relief.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district since environmental conditions should improve.
4. The variance **will not** result in an undesirable change to the character of the neighborhood or a detriment to nearby properties since it should improve the character of the neighborhood.

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.

AND, BE IT FURTHER, RESOLVED, that based upon the above findings, the Zoning Board of Appeals hereby determines that this approval shall be subject to the following condition:

1. The garage is attached to the primary structure.

Christine Kubida made a motion, seconded by Tiffany Paine-Cirincione, to grant Derek Lincoln the requested area variance. All members were in favor. Motion carried.

Christine Kubida made a motion, seconded by Tiffany Paine-Cirincione, to adjourn the meeting. Chairperson Kunzer adjourned the meeting at 7:43 PM.

Respectfully submitted,

Barbara Goulette, Clerk

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