

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, Charles Buss, Christine Kubida, and Becky Appleman. Brett Malafeew, Code Enforcement Officer was also present. Tiffany Paine-Cirincione, Zoning Board member, was not present. The meeting was held at the Walworth Town Hall.

Chairperson Kunzer asked if there were any corrections to the minutes of August 14, 2023. Becky Appleman made a motion, seconded by Charles Buss, to approve the minutes of August 14, 2023. All members were in favor. Motion carried.

Chairperson Kunzer addressed the first item on the agenda:

**1. Application of Donna Salatino of 3816 West Walworth Road seeking an area variance at 3816 West Walworth Road, Town of Walworth, and County of Wayne. Property is zoned Hamlet. (Public Hearing)**

Donna Salatino of 3816 West Walworth Road came forward to speak before the Board. Ms. Salatino said this property was a horse farm before she bought it, and she is requesting a variance to board horses in a barn that is closer to the property line less than 100 feet. Ms. Salatino said the property was up for sale for a long time, so it was 2 years that it was not a continuing farm. Ms. Salatino said the property has a 6,000 square foot horse arena, a 7-stall barn, 7 acres of land, and 2 lean-tos. Ms. Salatino said she bought the parcel to be able to have horses on the property and she did a lot of work in the barn without realizing she would not be able to board horses.

Chairperson Kunzer said Walworth Town Code 180-10-(A)(2) states there has to be 100 feet between the barn and the neighbor, and according to the filed survey map it is 48.8 feet from the property line so the applicant will need a 51-foot variance if you round 48.8 to 49 feet. Chairperson Kunzer said when the property did have horses it was approximately 46-48 acres, and it has now been divided into 3 lots. Mr. Malafeew said the property line has not changed next to the barn in this application. Ms. Appleman asked if this could be grandfathered in since it was a horse farm for years. Ms. Kubida said it cannot because it hasn't been a horse farm for 2 years.

Ms. Kubida asked if the applicant will be boarding her own horses. Ms. Salatino proposes to board a couple of her own horses and 7 other horses, and there will be 7 in the barn and 2-4 horses in the lean-tos. Chairperson Kunzer asked if any of the neighbors voiced any concerns to the applicant. Ms. Salatino said she heard nothing from the neighbors. Ms. Kubida asked if anyone has contacted the Town to look at this application. Mr. Malafeew said this application was advertised and we have had nobody contact us in regard to this application.

Chairperson Kunzer asked Mr. Malafeew if the Code 180-10 is the correct code for this application since this will be a business or should this be a home occupation. Mr. Malafeew said Ms. Salatino was sent to the Zoning Board by the Planning Board since she will need this variance before they can approve the home occupation. Ms. Kubida said there are manure storage procedures based around business as opposed to residential. Mr. Malafeew said the applicant is planning to take the manure off site. Chairperson Kunzer asked how often the applicant plans to remove manure from the property. Ms. Salatino said she plans to remove it on a monthly basis.

Ms. Appleman asked if she would need a variance if this was not proposed to be a business. Mr. Buss said the applicant needs a variance only because of the location of the barn. Mr. Malafeew said she needs the variance to board hers or anyone else's horses in the barn.

Ms. Appleman asked if Ms. Salatino has 7 acres of land. Ms. Salatino said she does. Ms. Kubida asked if any of the other barns on the property could be retrofitted that would fall into compliance or need a lesser variance. Ms. Salatino said she would have to put a lot of money into another barn to add horse stalls, and she has already put a lot of money into this barn. Ms. Kubida asked if the horses would be in the arena. Ms. Salatino said horses will be in the arena until she decides to do something different with it.

Mr. Malafeew said the owners of the parcel to the rear of Ms. Salatino's property are also considering putting horses on their property. Chairperson Kunzer said the barn is about 112 feet from the closest neighbor's house. Ms. Salatino said there are also a lot of trees between that house and the barn.

Chairperson Kunzer asked if there were any comments from the public. No issues were brought forward. Chairperson Kunzer closed the public hearing at 7:21 PM.

Chairperson Kunzer said the property was a horse farm for a long time, and the parcel was originally 46-48 acres and is now 7 acres. Chairperson Kunzer said the Board is only looking at Walworth Town Code 180-10(A)(2) and not the business

proposal. Chairperson Kunzer said that Ms. Salatino said she is going to remove the manure from the property monthly, and the variance is substantial. Ms. Kubida said she is concerned about the 2-year break, and there are other options. Ms. Kubida said the code that addresses the intent that the property's use cannot be outweighed by a business and the use cannot be more business than residential, therefore there needs to be proof that this will not change the characteristic of the neighborhood. Mr. Malafeew said that this property is in the Hamlet which allows for businesses. Mr. Malafeew said if Ms. Salatino is granted this variance, she would be able to board her own horses in this barn, and the Planning Board would then be able to grant a Home Occupation if they so choose.

Mr. Buss suggested that the application could be tabled to give the Board the opportunity to review this application further. Ms. Kubida asked if the application could be tabled until after she goes before the Planning Board for the Home Occupation. Mr. Malafeew said she was sent to the Zoning Board by the Planning Board when she went before them for a concept discussion.

Ms. Kubida asked if a condition could be added to the variance that states she can only board her own horses. Mr. Malafeew said this should be a decision for the Planning Board when she applies for a Home Occupation.

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

With regard to Application at 3816 West Walworth Road for an area variance requesting relief from 180-10(A)(2) Customary agricultural operations.

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** very substantial.
2. The purpose of the variance **can** be achieved by some other feasible alternative because there are a couple of different options.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district since it was there and has been used as a horse barn in the past.
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 a pre-existing horse barn.
5. The difficulty relating to the variance **was** self-created since she purchased the property.

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

Charles Buss made a motion, seconded by Becky Appleman, to grant Donna Salatino the requested area variance.

Roll Vote:	Chairperson Kunzer	Aye
	Christine Kubida	Nay
	Becky Appleman	Aye
	Charles Buss	Aye

Motion carried.

Chairperson Kunzer said the applicant is approved to house her own horses.

Chairperson Kunzer addressed the second item on the agenda:

**2. Application of Carl Donahower of 3796 Canandaigua Road seeking an area variance at 3796 Canandaigua Road, Town of Walworth, and County of Wayne. Property is zoned B-Business. (Public Hearing)**

Chairperson Kunzer opened the public hearing at 7:46 PM.

Carl Donahower of 3796 Canandaigua Road came forward to speak before the Board. Mr. Donahower said he proposes to put a new garage at the end of his existing driveway, so he is looking for a small variance of 1.2 feet into the front yard on the south side of the house. Chairperson Kunzer asked if the front of the garage will sit in front of the house. Mr. Donahower said the garage will be a little closer to the road than the house. Mr. Malafeew said the proposed garage measures 82 feet from the center line of the road. Mr. Malafeew said the property is in the Business district, so it has a

100-foot front setback, but the setback requirement goes off of the house location according to Walworth Town Code 180-12 (G)(1).

Chairperson Kunzer closed the public hearing at 7:51 PM.

Chairperson Kunzer said Mr. Donahower requested a 3-foot variance in his application. Mr. Buss asked the applicant if 3 feet would be enough. Mr. Donahower said it is enough.

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

With regard to Application at 3796 Canandaigua Road for an area variance requesting relief from 180-21(A) Accessory Buidlings and 180-12(G)(1) Yard 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).

1. The variance requested **is not** substantial since only a 3-foot variance is requested.
2. The purpose of the variance **can** be achieved by some other feasible alternative since the garage could be moved back.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district since it sits by itself.
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 since the owner wants to build a garage.

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 Charles Buss, to grant Carl Donahower the requested area variance.

Roll Vote:	Chairperson Kunzer	Aye
	Christine Kubida	Aye
	Becky Appleman	Aye
	Charles Buss	Aye

Motion carried.

Charles Buss made a motion, seconded by Becky Appleman, to adjourn the meeting. Chairperson Kunzer adjourned the meeting at 7:55 PM.

Respectfully submitted,

Barbara Goulette, Clerk