

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, Tiffany Paine-Cirincione, and Becky Appleman. Brett Malafeew, Code Enforcement Officer was also present. Christine Kubida, Zoning Board member, was not present.

Chairperson Kunzer asked if there were any corrections to the minutes of December 4, 2023. Becky Appleman made a motion, seconded by Charles Buss, to approve the minutes of December 4, 2023. All members were in favor. Motion carried.

Chairperson Kunzer addressed the item on the agenda:

1. Application Steve Cooper of 4164 Walworth-Ontario Road seeking an area variance at 4164 Walworth-Ontario Road that does not comply with the required setback. Property is zoned RR1-Rural Residential 1. (Public Hearing)

Steve Cooper of 4164 Walworth-Ontario Road came forward to speak before the Board. Mr. Cooper said he is requesting a variance from Section 180-44 of the Walworth Town Code for the pond that is already built on his property. Mr. Cooper said he discovered the pond crosses the property line in the most recent survey of his property that was updated last week. Mr. Cooper said he assumed the ditch ran along the property line, and he will resolve this issue with his neighbor. Mr. Cooper said the roughly 22,000 square-foot pond is an open water pond since it is greater than 12,000 square feet and it requires a 100-foot setback from the property line, so he is asking for a variance. Mr. Cooper said the pond will make his property more valuable and he intends to use it as a fishpond.

Ms. Appleman asked if the other pond is his and if the drainage ditch had ever been cleaned out. Mr. Cooper said the other pond is his and existed on the property when he bought it, and he is going to modify the drainage so the larger pond will be the overflow for the smaller pond and will overflow to the wetlands. Chairperson Kunzer said an open pond needs to be at least 100 feet from the property line, and a recreational pond needs to be at least 20 feet from the property line.

Chairperson Kunzer said the survey map of the property is not signed by the surveyor, and the size of the pond is 22,260 square feet according to a discussion he had with the surveyor so by definition this is an open water pond. Mr. Buss said the Zoning Board is not allowed to change the definition. Mr. Cooper said he requests a variance for the 100-foot setback requirement. Chairperson Kunzer said the width of the property is 300 feet so he could have a 100-foot-wide pond and still have 100 feet on each side of it. Mr. Cooper said there is a farm road in the center of the property and the north side is wooded.

Chairperson Kunzer said the Zoning Board can not put a condition on a variance that says he needs to correct the issue with the pond being over the property line.

Mr. Malafeew said a stop work order was issued on the larger pond since it was over 13,000 square feet and too close to the property line in 2018. Mr. Malafeew said in December of 2023 the 2 ponds and the blocked creek caused the neighbors to be flooded so Mr. Cooper was asked to fix it, but it did not happen. Mr. Malafeew said in January of 2024 the neighbors were flooded even worse, so a violation letter was issued stating the issue had to be corrected by July 2024. Mr. Malafeew said Mr. Cooper's proposed subdivision is also in question since the other pond is over 13,000 square feet and too close to the property line so both ponds would be in violation. Mr. Malafeew said the deadline of July 2024 was extended to September 2, 2024 to allow Mr. Cooper a chance to get a variance. Mr. Malafeew asked Mr. Cooper if he has done anything to try to bring the pond into compliance since this map was issued July 29, 2024 showing the pond over the property line. Mr. Cooper said he is trying to connect with the neighbor, Gary McKee. Mr. Malafeew said he learned that the drainage ditch was altered in December 2023, and the outflow from the larger pond comes out onto the neighbor's property. Mr. Malafeew said there has been no resolution.

Ms. Paine-Cirincione said she is not comfortable making any motion to grant a variance because Mr. Cooper has some work to do with the Town and his neighbors. Chairperson Kunzer said the Zoning Board cannot make a decision on this variance at this meeting. Mr. Cooper said he understands that he needs to get the pond at least 20 feet from the property line and then return to the Zoning Board for a variance. Ms. Paine-Cirincione said that would be an 80-foot variance and there is no guarantee that the Board will grant the variance. Mr. Cooper said he could also fill in the smaller pond so it will be a recreational pond.

Tiffany Paine-Cirincione made a motion, seconded by Charles Buss, to close the public hearing. All members were in favor. Chairperson Kunzer closed the public hearing at 7PM.

Chairperson Kunzer suggested tabling the application. Mr. Buss said the application should be denied based on the size of the pond and the issues Mr. Cooper is having with the Town. Ms. Paine-Cirincione said the application could be tabled until September 2, 2024. Mr. Buss asked if his application can be removed. Chairperson Kunzer said the application has already been advertised so it cannot be removed. Ms. Paine-Cirincione said the application should be denied since it will not be the same if he returns to the Zoning Board. Chairperson Kunzer said we can deny the application since the pond is over the property line. Tiffany Paine-Cirincione made a motion, seconded by Charles Buss, to deny the application. All members were in favor. Motion carried.

Charles Buss made a motion, seconded by Tiffany Paine-Cirincione, to adjourn the meeting. Chairperson Kunzer adjourned the meeting at 7:06 PM.

Respectfully submitted,

Barbara Goulette, Clerk

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