

Chairperson Michael Kunzer called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 6:30 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.

Chairperson Kunzer asked if there were any corrections to the minutes of August 5, 2024. Becky Appleman made a motion, seconded by Charles Buss, to approve the minutes of August 5, 2024. Christine Kubida abstained since she was not present at the August meeting. All other 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)**

Chairperson Kunzer said Mr. Cooper is seeking relief from Walworth Town Code 180-44. Chairperson Kunzer said the applicant's pond is an open water pond since it is over 12,000 square feet, and it must be 100 feet from the property line.

Steve Cooper of 4164 Walworth-Ontario Road came forward to speak before the Board. Mr. Cooper has two ponds in his application, pond one which has existed for decades and is on the northwest of the property, and pond two which was dug in the past couple of years and is on the southeast of the property. Mr. Cooper said he is seeking relief from the 100-foot setback requirement for pond one because he has an application with the Walworth Planning Board to subdivide the property and the lots are required to be 1 acre. Mr. Cooper said the pond is almost 18,000 square feet. Mr. Cooper said the objective of pond two is to create a sustainable fishing pond which needs to be about one-half an acre. Mr. Cooper said there is no other place on the property for this pond because the water table is too high, and north of its present location would also contend with a property line, it is heavily treed, and it has the only access road to the east portion of his property.

Mr. Malafeew said the drainage for the pond is working pretty well, and he has requested that the ditch between the ponds be widened and cleaned out, to which Mr. Cooper agreed. Mr. Cooper said he has started widening the ditch. Mr. Cooper said the primary drainage for pond one goes to pond two and then it heads east to the wetlands, and the secondary drainage goes to the existing drainage ditch.

Ms. Appleman asked how many feet the ponds are from the property line. Mr. Cooper said it varies from 29 to 23 feet on pond two, and 20 feet from the proposed property lines on pond one. Mr. Cooper said in about 2016 when this property was previously split into three lots there was a property line south of pond one about 15 feet from the pond, so his request is not unprecedented for this property. Chairperson Kunzer said pond one is about 19,000 square feet, and pond two is about 21,500 square feet, and are they classified as open water ponds by the Town. Ms. Appleman said the applicant is asking for a significant variance.

Chairperson Kunzer asked if there were any comments from the public. Nobody was present from the public. Charles Buss made a motion, seconded by Christine Kubida, to close the public hearing. All members were in favor. Chairperson Kunzer closed the public hearing at 6:47PM.

Chairperson Kunzer said Mr. Cooper has been working with the Town and agreed to the conditions about the ditch. Chairperson Kunzer said there is significant pond size on both ponds and a significant request for relief. Ms. Appleman said 80 feet of relief is a lot. Ms. Kubida said the ponds have been there. Mr. Busse said Mr. Cooper has been working with the Town. Ms. Kubida said it will be important to keep the ponds healthy for the fish in the pond, so neglecting drainage will not be to Mr. Cooper's benefit.

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

With regard to Application at 4164 Walworth-Ontario Road for an area variance requesting relief from 180-44 Pond regulations.

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 code states there is a 100-foot setback requirement.
2. The purpose of the variance **cannot** be achieved by some other feasible alternative because it would be a significant amount of work.
3. The variance **will not** have a negative effect on physical or environmental conditions in the neighborhood or district since any negative effects have been addressed.
4. The variance **will not** result in an undesirable change to the character of the neighborhood or a detriment to nearby properties and may possibly enhance the property.
5. The difficulty relating to the variance **was** 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 Charles Busse, to grant Steve Cooper the requested area variance.

Christine Kubida	Aye
Charles Busse	Aye
Chairperson Kunzer	Aye
Becky Appleman	Nay

Motion carried.

Christine Kubida made a motion, seconded by Charles Busse, to adjourn the meeting. Chairperson Kunzer adjourned the meeting at 7:00 PM.

Respectfully submitted,  
Barbara Goulette, Clerk