

Chairperson Pam Knapp called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:04 PM. Members present: Tony Laga, Pam Knapp, Jim Hinz and Michael Bagne. Gerald Champagne was absent. Town employees present: Phil Williamson, Code Enforcement Officer. Denise Munson, Town Attorney was absent.

Mike Bagne made a motion, seconded by Jim Hinz to approve the minutes of July 7, 2008 with the following correction, under item #3, the first sentence should read, Chairperson Knapp, not Chairperson Ruth opened the public hearing.

Roll Vote:	Tony Laga	Aye
	Pam Knapp	Aye
	Michael Bagne	Aye
	Jim Hinz	Aye
	Gerald Champagne	Absent

Motion carried.

1. **Continuation of Public Hearing of Application of Tim Craft to seek relief from Walworth Town Code Section §180-10A(2) which in part states, “Customary agricultural operations shall include cutting, splitting and sale of firewood harvested from trees grown on the premises.” Mr. Craft seeks a use variance to allow him to bring in logs not harvested from trees growing on the premises to be split and sold as firewood. Property is located at 1601 Atlantic Avenue, at the corner of Atlantic and Downs Roads. Property is zoned: RR-1 Single-Family Residential.**

Chairperson Knapp opened the public hearing.

Tim Craft, 1560 Plank Road was present, along with his attorney Ernest Ferullo, E. Main Street, Rochester. Attorney Ferullo began by stating that he was “completely baffled” as to why this matter was before the Zoning Board in the first place. Attorney Ferullo stated, “I think this matter properly belongs with an application for a Home Occupation, Category A and scheduled for a Planning Board meeting, all in accordance with Section § 180-43.1. It is very clear that the Planning Board has specific criteria that they need to meet and that the Planning Board has to grant the Home Occupation as long as they are met. The only thing they can do is put conditions on it.” Mr. Craft commented that clearly Section §180-10(A)(2) did not apply because Mr. Craft did not want to run a “customary agricultural operation”. Mr. Craft just wants to live there. Mr. Ferullo stated, “This is an existing residence and has always been a residence, and it has never been a farm”. Attorney Ferullo stated that running a firewood business was a permitted accessory use under a Home Occupation – Major Category A, and said that a “use variance” was not needed. He again requested that the matter be referred back to the Planning Board.

Chairperson Knapp explained that the matter had already been before the Planning Board at the July 14, 2008 meeting and at that time it was referred back to the Zoning Board for a “Use Variance” based on 180-10(A)(2), and that is what the Zoning Board must base their decision on.

Phil Williamson stated, “My suggestion would be to defer this hearing until next month, because if we are going to deal with legal issues, this board is not prepared. I would suggest, that the Town Attorney be present to represent the Town. However, I will add you that you cannot pick and choose portions of the code. Section 180-43.1(D) does specifically say, the property must be in full compliance with the provisions of Chapter 180 of the municipal code of the Town.”

Attorney Ferulla voiced his dissatisfaction that the Town Attorney was not present, as this was a regularly scheduled meeting and not a surprise matter. Chairperson Knapp responded that the Town Attorney was not present, because she had a previously scheduled vacation.

Jim Hinz, made a motion, seconded by Tony Laga that the meeting be tabled until September 2, 2008 so that the Town Attorney can be present.

Roll Vote:	Tony Laga	Aye
	Pam Knapp	Aye
	Michael Bagne	Aye
	Jim Hinz	Aye
	Gerald Champagne	Absent

Motion carried.

Phil Williamson stated for the record that the public hearing has not been closed and will continue at the Tuesday, September 2, 2008 meeting.

Chairperson Knapp adjourned the meeting at 7:14 PM.

