

In the absence of Chairperson Pam Knapp, Tony Laga called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:05 PM. Members present: Tony Laga, Gerald Champagne and Michael Bagne. Town employee present: Phil Williamson, Code Enforcement Officer. Chairperson Knapp and Jim Hinz were absent.

Jerry Champagne made a motion, seconded by Mike Bagne to approve the minutes of the October 6, 2008 meeting with the following correction: Item 1. Paragraph 5, line 3. "...several nearby downs" should be corrected to read "...several nearby towns". Motion carried.

- 1. Application of Steve Shanders for area variance of property located at 4346 Ontario Center Road to construct an addition to the residence that will encroach 2 ft. into the required 75 ft. front setback for the RR-1 Rural Residential district wherein the property is located. Applicant seeks relief from Walworth Town Code, Section 180-29. Development along major streets. (Public Hearing).**

Tony Laga opened the public hearing.

Steve Shanders, owner of the property located at 4346 Ontario Center Road was present. He explained that he is seeking an area variance to construct an addition onto the front of his existing residence that will encroach 2 feet into the front setback. The proposed addition will be 18.8 ft. by 22 ft. Because of the location of the septic and the swimming pool in the backyard it is not possible to put the addition in the back of the house. Mr. Shanders commented that there are other residences nearby, including several houses across that street that are closer to the road than his house. The Board was in receipt of a map showing the location of the proposed addition.

Tony Laga questioned if the south side of the addition would extend past the existing structure and Mr. Shanders responded that it would not.

The Board had no further questions.

There were no comments from the public.

Tony Laga closed the public hearing.

Mike Bagne made the following motion, seconded by Jerry Champagne to approve the application of Steve Shanders for an area variance.

I move, after considering the benefit to the applicants and the detriment to the health, safety, and general welfare of the neighborhood or the community that would occur as a result of the variance being granted and taking into consideration the five factors set forth in Section 267-b(3b) and finding:

1. The granting of the variance will not cause an undesirable change in the character of the neighborhood or a detriment to nearby properties because the variance request is minimal and there are other properties nearby that are closer to the road.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because the addition could not be placed elsewhere on the property because of the location of the existing pool and septic in the backyard.
3. The area variance is not substantial because it is only 2 feet into the 75 ft. setback requirement.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because there are houses directly across the street that are physically closer to the road.
5. The alleged difficulty was self-created; however, because of the conditions listed above and without the variance he would not be able to achieve the desired square footage.

And further finding the variance is the minimum variance that it deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community.

This Board finds that the findings it has made as set forth in factors 1, 2, 3 and 4 outweigh the finding it has made as set forth in factor 5 and that substantial emphasis be given to factors 1, 2, 3 and 4 and by reason thereof, the Board concludes that the variance be granted since the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community.

There are no conditions placed on the variance.

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

Motion carried.

2. Application of Shawn and Trudi Smith for area variance of property located at 1820 Sherburne Road to put a roof over existing front stoop that encroaches 4 ft. into the required 60 ft. front setback for the R – Rural Residential district wherein the property is located. Applicant seeks relief from Walworth Town Code, Section 180-12G(1) front yard setback. (Public Hearing).

Tony Laga opened the public hearing.

Shawn and Trudi Smith, owner of the property were present to discuss the application. The applicants are requesting an area variance to construct a roof over an existing front stoop (porch) to provide relief from the elements. The addition of the roof will make the entrance both safer and more appealing. The original porch foundation was built in 1986 and encroached 3 ft. in the zoned setback requirement. Tony Laga and Mike Bagne both visited the property and stated that the proposed roof over front porch would not extend any further into the front setback than what already exists.

The Board had no further comments.

There were no comments from the public.

Tony Laga closed the public hearing.

Jerry Champagne made the following motion, seconded by Mike Bagne to approve the application of Shawn and Trudi Smith for an area variance.

I move, after considering the benefit to the applicants and the detriment to the health, safety, and general welfare of the neighborhood or the community that would occur as a result of the variance being granted and taking into consideration the five factors set forth in Section 267-b(3b) and finding:

1. The granting of the variance will not cause an undesirable change in the character of the neighborhood or a detriment to nearby properties because the roof does not extend beyond the existing structure (porch).
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because the front porch is already existing.
3. The area variance is not substantial because it is only 4 feet into the 60 ft. front setback requirement and the proposed roof will not extend any further into the front setback than the existing structure (porch).
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because there it is an improvement to the residence and it does not extend beyond the existing structure (porch).
5. The alleged difficulty was not self-created; because it is a pre-existing condition.

And further finding the variance is the minimum variance that it deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community.

This Board finds that the findings it has made as set forth in factors 1, 2, 3, 4 and 5 outweigh all other findings and that substantial emphasis be given to factors 1, 2, 3, 4 and 5 and by reason thereof, the Board concludes that the variance be granted since the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community.

There were no conditions placed on the variance.

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

Motion carried.

3. Application of Scott & Jamie Snyder for area variance of property located at 288 Walworth-Penfield Road to attach a pergola onto the side of the residence that will encroach 4 ft. into the required 15 ft. side setback for the R-Residential district wherein the property is located. Applicant seeks relief from Walworth Town Code, Section 180-12G(2) side yard width. (Public Hearing).

Tony Laga opened the public hearing.

Jamie Snyder, owner of the property was present to answer questions from the Board. Ms. Snyder explained that they would like to attach a pergola onto the side of their house to provide shade for an existing patio. Presently, they are unable to enjoy using it during the summer month as the patio is exposed to full sun. The pergola will encroach 4 ft. into the required 15 ft. side setback. Ms. Snyder explained that this is an open structure and it will be an improvement to the property. The Board was in receipt of a map showing the location of the proposed pergola. A drawing of what the pergola will look like was also included with the application. When questioned by the Board, Phil Williamson stated that the patio itself could go right to the property line, but the pergola is considered a structure that must meet setback requirements, therefore a variance is required. The Board reviewed the survey map and discussed the location of the pergola as it related to the side setback.

Mrs. Snyder presented a letter from Edward Buttaccio, 280 Walworth-Penfield, neighbors to the west that stated that they had no problem with the plans to construct the pergola as it pertained to their property line. There were no further comments from the public.

Tony Laga closed the public hearing.

Mike Bagne made the following motion, seconded by Jerry Champagne to approve the application of Scott and Jamie Snyder for an area variance.

After considering the benefit to the applicants and the detriment to the health, safety, and general welfare of the neighborhood or the community that would occur as a result of the variance being granted and taking into consideration the five factors set forth in Section 267-b(3b) and finding:

1. The granting of the variance will not cause an undesirable change in the character of the neighborhood or a detriment to nearby properties because the variance request is minimal and the pergola will be an aesthetic improvement to the property.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because the desired results (shade for the existing patio) could not be achieved without the variance.
3. The area variance is not substantial because it is only 4 feet into the side setback which is less than 1/3 of setback requirement of 15 feet.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood because it is an open trellis-type structure and not a building-type structure.
5. The alleged difficulty was self-created; however, because the applicant desires to cover an existing patio to provide shade, a variance is necessary.

And further finding the variance is the minimum variance that it deems necessary and adequate at the same time preserved and protects the character of the neighborhood and the health, safety and welfare of the community.

The Board finds that the findings it has made as set forth in factors 1, 2, 3 and 4 outweigh the findings it has made as set forth in factor 5 and that substantial emphasis be given to factors 1, 2, 3 and 4 by reason thereof, the Board concludes that the variance be granted since the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community.

There were no conditions placed on the variance.

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

Motion carried.

Chairperson Knapp adjourned the meeting at 7:59 P.M.

Respectfully submitted,

Gail Rutkowski, Zoning Board Clerk

