

Chairperson Pam Knapp called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:00 PM. Members present: Pam Knapp, Jerry Champagne, Jim Hinz, Michael Bagne and Steve MacNeal. Town employee present: Phil Williamson, Code Enforcement Officer.

Jim Hinz made a motion, seconded by Jerry Champagne to approve the minutes of the January 4, 2010 as written.

Roll Vote:	Jerry Champagne	Aye
	Steve MacNeal	Aye
	Pam Knapp	Aye
	Jim Hinz	Aye
	Michael Bagne	Aye

Motion carried.

1. **Application of Joseph Villnave requesting an area variance for property located at 4309 Ontario Center Road to allow the applicant to construct a two-family duplex situated on a vacant parcel consisting of 4.0 acres. Applicant seeks relief from Walworth Town Code Section 180-10 RR-1 Districts: Single-Family Residential. Property is zoned: RR-1 - Rural Residential 1.**

Chairperson Pam Knapp opened the public hearing.

Mr. Joseph Villnave, Mountain Laurel Court, Ontario and owner of the property located at 4309 Ontario Center Road was present. Mr. Villnave explained that he would like to build a two family duplex on the 4-acre vacant parcel that he owns. He explained that he and his family would live in one unit and the other would be for his parents when they give up their home in Gananda. Until they moved in he would rent it out to help pay the cost of the mortgage and maintenance on the property. He explained that there are two existing duplex residential building in close proximity. One built in 1969 on a 0.85-acre parcel situated adjacent to the front of the 4.0-acre parcel that he hopes to develop. Another private two family residence fronts on Ontario Center Road and is situated in front of the 0.85-acre parcel. Under current zoning construction of a duplex would be a non-conforming use.

Mr. Villnave explained that the Walworth Gun Club is located approximately 200 ft. south of the property. Considerable noise is generated by the members when target shooting and holding outside events, therefore creating a hardship for owners of all nearby properties. Mr. Villnave commented that resale of the land to someone looking for a quiet residential site would be difficult because of the proximity to the Walworth Gun Club.

There were no comments from the public.

Chairperson Knapp closed the public hearing.

Mike Bagne made the following motion, seconded by Jerry Champagne to approve the application of Joseph Villnave for an area variance for property located at 4309 Ontario Center Road.

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 there are two existing duplexes in close proximity and is located a considerable distance off the primary road.
2. The benefit sought by the applicants cannot be achieved by some other method feasible for the applicant to pursue because an area variance is required to build the duplex.
3. The area variance is not substantial because of the presence of other duplexes in the immediate area.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because it is characteristic with the existing neighborhood.
5. The alleged difficulty was self-created; however, because the intent was to build a duplex to include generation of income when not occupied by family members.

And further finding the variance is the minimum variance that it deems necessary and adequate at the same time preserve 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 findings it has made as set forth in factor 5, and 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 applicants outweigh the detriment to the health, safety and welfare of the neighborhood or community.

There are no conditions placed on the variance.

Roll Vote:	Jerry Champagne	Aye
	Steve MacNeal	Aye
	Pam Knapp	Aye
	Jim Hinz	Aye
	Michael Bagne	Aye

Motion carried.

2. Application of James J. Porcelli requesting an area variance for property located at 1716 Plank Road to allow an addition to an existing garage on a parcel without a principal dwelling. Applicant seeks relief from Walworth Town Code Section 180-21E. Accessory Buildings & 180-43A(2) & D Non-conforming structures. Property is zoned: RR-1 – Rural Residential 1.

Chairperson Knapp opened the public hearing.

James Porcelli of 3252 Green Tree Drive, Walworth was present. He explained that they purchased the property at 1716 Plank Road with a building (garage) that was pre-existing and non-conforming with the intention of expanding the building (see Section 180-21E Accessory Buildings without a principal dwelling). The garage will be used for storage of a camper and other items. Mr. Porcelli explained that the existing garage is 24 ft. by 24 ft. and he would like to enlarge the garage to be 24 ft. by 28 ft. or if not permitted to replace the existing building with a new building 24 ft. x 24 ft.using the same footprint.

Mr. Porcelli stated that he initially met with Norm Druschel to explain what he would like to do. It was suggested that since he was requesting to enlarge the building and improve upon its appearance that he would have to come before the Zoning Board of Appeals for an area variance.

Several board members commented that they had visited the site and that the building had been removed. Mr. Porcelli stated that the building was removed while clearing the land and placing stone for the driveway, but he intended to use the same footprint for the new structure, using the original footers that remain in place.

Phil Williamson commented that by demolishing the existing structure, Mr. Porcelli eliminated the possibility of just repairing the existing building even though it was a non-conforming use.

Phil Williamson called the attention of the Board to Town Code Section §180-43D(2) which reads:

“Nonconforming building and structures. Where an otherwise lawful building or structure exists at the effective date of adoption or amendment of this chapter which would not be permitted under the terms of this chapter by reasons of restrictions on area, lot coverage, height, yards, location on the lot or other requirements concerning the building or structure, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (2) Should such nonconforming building or structure or nonconforming portion of a building or structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.”

Mr. Porcelli commented that the building was “falling apart” and the property when finished will look 100% better than the day it was purchased. The plans to expanding the garage, the stone driveway and the addition of plants and flowers will only improve the property. He explained that the garage cannot be seen from surrounding homes and the garage is in the center of the property surrounded by many trees and bushes on all sides.

When questioned as to why the building had been taken down, Mr. Porcelli commented that he had removed the building after talking with Norm Druschel, Building Inspector and since the original footers remained he did not feel he had violated any town codes.

The question was asked whether or not he intended to build a house in the future? Mr. Porcelli commented that he did not have any such plans at the present, but did not rule out the possibility in the future.

After discussion the Board decided that the public hearing should be tabled until the next meeting to seek a legal opinion from the Town Attorney.

Jerry Champagne made a motion, seconded by Mike Bagne to table the public hearing until the next Zoning Board of Appeals meeting on June 7, 2010.

Chairperson Knapp adjourned the meeting at 7:45 P.M.

Respectfully submitted,

Gail Rutkowski, Zoning Board Clerk