

In the absence of Chairman Ken Masker, Tony Laga called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:08 PM. Members present: Jim Hinz Karel Ambroz. Ken Masker arrived at 7:20 P.M. Pam Knapp was absent.

Karel Ambroz made a motion, seconded by Jim Hinz to approve the minutes of July 5, 2006 as presented.

Roll Vote:	Tony Laga	Aye
	Pam Knapp	Absent
	Jim Hinz	Aye
	Karel Ambroz	Aye
	Ken Masker	Absent

Motion carried.

- 1. Continuation of application of Kim and Eric Phillips for Area Variance located at 5548 Lincoln Road to allow construction of a barn that is closer to the property line than Town Code requirements. The property is located in a RR-1A District. The applicant seeks relief from Walworth Town Code 180-10.IA(2).**

Tony Laga stated that at the July 5th meeting was tabled to allow the Planning Board to research the Town Clerk records. After research it was found that there was a typographical error in the codebook and buildings housing livestock must be 100 feet from property lines, not 200 feet.

Tony Laga opened the public hearing.

Eric and Kim are present to discuss the application. Mr. Phillips explained that they would like to construct their pole barn on a sandy knoll for good drainage. In order to build in this location, the Phillips are requesting a variance to allow them to construct the building closer to the north property line than zoning allows. Mr. Phillips stated the property line in question is "not buildable". Mr. Phillips explained that previous Planning Board minutes stated that the back part of the flag lot off Silo Acres is too low and wet to be built upon. All other property lines are well over 100 feet from the proposed building.

Tony Laga commented that whether or not the lot is "buildable" could be disputed as fill could be brought in. Ken Masker stated that although the statement was made in the minutes, there were no actual restrictions or anything in the Town law that would prohibit building on the property.

Karel Ambroz questioned whether the picture provided was a representation of the proposed pole barn? Mr. Phillips responded, "The drawing is a close representation. The actual structure will be sided to match their house and the back of the barn will be for storage of equipment."

Chairman Masker stated that one of the points that needs to be considered is that "the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the area variance." Chairman Masker reasoned that since the setback requirements are 100 feet from the property line, there is ample room to meet the setback. "Why does the barn need to go there?"

Mr. Phillips responded that the reason was "for cost of construction". If they were to place the barn 100 feet off the north property line, there would be a 7 or 8 foot drop between one corner of the barn to the far corner, which would necessitate bringing in fill and additional grading costs. If they were allowed to build on top of the knoll this would decrease their construction costs.

Jim Hinz questioned the location of the leachfield. Mr. Phillips responded that even if the variance is not granted they would be 8 or 10 away from the leach lines if they were to build 100 feet from the north property line.

Mary Jo Polatas of 788 Whitney Road questioned, "How many horses will be sheltered in the barn?" and "How will the manure be disposed of?" Mr. Phillips responded, "two or three". Kim Phillip's stated that the manure will be disposed of according to Town Code. The prevailing winds coming across the property blow out of the northwest which will blow any odors away from Whitney Road and toward the back of the Phillip's property.

Paul Bennino, 5532 Lincoln Road stated that he understands that the Phillips are allowed by law to have a barn on their property if they are within the setback requirements. He further stated that he and his wife have spoken with experts in the field; mainly the Cornell Co-op Extension, US Dept. of Agriculture and the Natural Resources Conservation Service. A member of the NRCS stopped by the Bennino residence and made the following recommendations 1) manure be stockpiled at the back of the property and 2) to try to prevent runoff going into the drainage ditch between the two properties. The Bennino's also asked the Phillips' as a "neighborly gesture" consult with these organizations to recommend ways to alleviate the negative aspects of horses.

Tony Laga stated that this recommendation would be between neighbors and not something the Board could rule on. Chairman Masker stated that as long as the Phillips comply with setback requirements there is nothing else this Board can do. Mr. Bennino stated that he recognized this.

Chairman Masker closed the public hearing.

Karel Ambroz made the following motion, seconded by Jim Hinz to deny the application of Kim and Eric Phillips for an area Variance.

I move, after considering the benefit to the applicant and the detriment to the health, safety, 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 use of the property to house horses will not be out of character in the neighborhood.
2. The benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue because there are other areas on the property that are 100' feet from the property line to locate the barn.
3. The area variance is substantial because it is 2/5 of the required setback.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because it is in keeping with the character of the neighborhood
5. The alleged difficulty was self-created; however, because the variance requested is for the ease of construction and convenience of the applicant.

This Board finds that the findings it has made as set forth in factors 2, 3 & 5 outweigh the finding in 1 and 4 and that the substantial emphasis be given to 2, 3 & 5 and by reason thereof, the variance be denied because the hardship created by not granting the variance does not outweigh the substantial nature of the variance.

Roll Vote:	Tony Laga	Aye
	Karel Ambroz	Aye
	Ken Masker	Aye
	Jim Hinz	Aye
	Pam Knapp	Absent

Motion carried.

Eric Phillip questioned whether a lesser variance would be allowed?

Chairman Masker stated that there would need to be another application submitted and another public hearing in order for the Zoning Board of Appeals to consider a lesser variance.

2. Application of Philip L. Serafine for Area Variance at Red Fox Circle (off Whitney Road) to allow two less than 1-acre lots in an RR-1 District that requires a minimum lot size of 1 acre. The applicant seeks relief from Walworth Town 180-10D.

Mr. Serafine was present to discuss the application with the Zoning Board of Appeals. Discussion ensued in regard to Mr. Serafine’s plan for the property.

For the record, Tony Laga stated that we should consider only Lots 17, 18, 19, 20, 21 and 22 and not the two-acre lot, as no plans have been submitted for the 2-acre parcel.

Tony Laga stated that the combined square footage of Lots 21 and 22 already comply with the minimum 1-acre requirement, but the square footage of Lots 17 and 18 and 19 and 20 do not meet the 1-acre requirement.

Chairman Masker stated that it Mr. Serafine would need to go before the Planning Board to explain the proposal to combine the ½-acre lots together, as this would be a modification of the previously approved subdivision. If the Planning Board approved the combination of the lots into one lot, the Zoning Board of Appeals would then hear Mr. Serafine’s request for a variance for the two lots which are less than the required 1-acre minimum in an RR-1 District.

Tony Laga made a motion, seconded by Karel Ambroz to table the discussion under until after Mr. Serafine has appeared before the Planning Board with the request to combine the two lots into one and the Planning Board has made a decision on that request.

Roll Vote:	Tony Laga	Aye
	Karel Ambroz	Aye
	Ken Masker	Aye
	Jim Hinz	Aye
	Pam Knapp	Absent

Motion carried.

Chairman Masker stated that if the Planning Board grants the request to modify the previously approved subdivision then the Zoning Board of Appeals will hear the request to grant a variance for the two lots in question that will be less than the 1-acre minimum as required by current zoning for the RR-1 Rural Residential which this property is located.

Phil Williamson will send a letter to both Mr. Serafine and the Planning Board.

Ken Masker made a motion seconded by Karel Ambroz to adjourn the meeting at 7:59 P.M.

Respectfully submitted,

Gail Rutkowski
Zoning Board Clerk

