

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 7:05 PM. Members present: Jim Hinz and Pam Knapp. Karel Ambroz was absent. Town employee present was Phil Williamson, Code Enforcement Officer.

Pam Knapp made a motion to approve the minutes of June 5, 2006, seconded by Jim Hinz .

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

Motion carried.

- 1. 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 opened the public hearing.

Kim and Eric Phillips were present to discuss the application. Ms. Phillips explained that when they purchased the 11-acre property in the Spring 2004 it was with the full intent to eventually build a barn to shelter horses on their property. They are requesting an area variance to the setback from the property line so that a barn may be built on top of the knoll adjacent to the house. The advantages of this location are the elevation and soil. This is the highest elevation on the property, with sandy soil that perks well.

Ms. Phillips explained that the widest section of the property is 350', but it is too far from the house to be practical for chores. The area is also lower than the proposed site and would require extensive fill to provide adequate drainage. She stated that the cost would be prohibitive. Two contractors were consulted that recommended the proposed location as the most feasible placement of the barn to avoid drainage issues.

In support of their request for an area variance, the Phillip's distributed minutes of the Planning Board Worksession of July 23, 2003, which stated:

"2. Application of Robert Lindsay for 3-lot subdivision to be known as Silo Acres located at 5560 Lincoln Road.

Dave Matthews stated that Lot 3 contained about 180' of frontage at the setback line and would require a Waiver for the required 250'. Gene Bavis asked if there was any consideration given to relocating the house back farther on lot 3. Dave stated that the placement of the home was based on topography and the fact that the rear, south area of the lot was wooded and not developable."

A diagram of the proposed barn was distributed to board members, as well as three photos of the property, showing a heavily wooded area that obstructs the view to the north.

The Phillips' stated that the three stalls will be located on the south side of the barn, facing the Phillips' property rather than the neighboring property to the north. The roof and siding of the barn will complement the house.

Ms. Phillips stated that she is aware of everything involved with the care and raising of horses. She was raised with horses on her property in Ontario and spent 11 years as a professional horseman. They currently own two horses which they are boarding elsewhere. The Phillip's stressed that this is not a "whim", but a very informed lifestyle choice. They have a strong desire to carry on this way of life with their children and have their horses at home with them.

The Board was in receipt of a letter from Paul M. Barnes of 5552 Lincoln Road, dated June 20, 2006 that stated,

“This letter is in regards to a proposed building permit filed by a neighbor of mine; Eric Phillips who resides at 5548 Lincoln Road in the Town of Walworth. It is my understanding that Mr. Phillips wishes to build a barn to house horses on his property. I am submitting this letter to inform the Zoning Board that I have no reservation concerning this proposed barn.”

Pam questioned how wide the property was at its widest point? Kim Phillips answered “348 feet”.

Jim Hinz questioned how far the barn would be from the Phillip’s south property line? Kim Phillips answered, approximately 210 feet from southern corner of the barn to the property line”.

Pam Knapp questioned if they had talked to anyone at the Town before purchasing the property? Ms. Phillip’s stated that prior to purchasing their property she had spoken to both Norm Druschel and Karen Ambroz who told her that they would be able to build a barn on their property as long as it was 100 feet from the property line.

Pam Knapp questioned when the RR-1 district was changed to RR-1A. Phil Williamson answered January 6, 2005.

Ms. Phillips stated that she had looked at past Planning Board minutes and did not find any mention of a change in setback requirements to 200 feet from 100 feet. The only change mentioned was the 2-acre minimum size lot, instead of 1-acre minimum.

Phil Williamson suggested tabling the decision to have a chance to research the Town Clerk records to make sure that the intent was to change the setback requirements to 200 feet. The possibility exists that that there was an error in the codebook.

The Phillip’s concurred that they would prefer to research the Town Clerk records prior to the Zoning Board making a decision.

Tony Laga invited public comment.

The Zoning Board was in receipt of a letter from Paul and Kerry Bonino of 5532 Lincoln Road, dated July 4, 2006 stating that they were opposed to the Town of Walworth granting a variance to allow the Phillip’s to building a horse barn on their property.

Mr. Bonino was present and stated that he has what he considers valid concerns in regard to having a barn to house horses within 400 feet of his house. He explained that his land borders the entire southern boundary of the Phillip’s land.

Mr. Bonino expressed concern about the buildup of manure and the odor produced. He stated that even though the Phillip’s contend that prevailing winds will keep the odor away, there were several times recently when the winds were from the northeast several days in a row. Mr. Bonino further stated that he had visited a property in Ontario where the owner were meticulous about cleaning up after their animals, yet there was an offensive odor even several hundred feet away. In addition, there will be an increase of bacteria carrying flies and insects in the neighborhood.

Mr. Bonino stated that he feels that with a horse barn next door, he will be unable to enjoy the use of his own land. Because of the odor he may not be able to host parties or keep his windows open. Furthermore, runoff flowing into Mill Creek could possibly end up on his property and into his vegetable garden.

He expressed further concern of the impact of the horse barn on the resale value of his home as well as other neighboring properties.

There we no further public comment.

Pam Knapp made a motion, seconded by Jim Hinz to table the decision until the August 7th meeting. Motion carried.

2. Application of Gary J. and Maryann G. Antinoro for Use Variance located at 5240 Swadling Road to construct an accessory building on vacant land which does not have a permitted principal use. The property is located in a RR-1 District. The applicant seeks relief from Walworth Town Code 180-10B & 180-21E.

Tony Laga opened the public hearing.

Gary and Maryann Antinoro were not present to discuss the application. Phil Williamson, Code Enforcement Officer explained that the Antonoro's purchased the property in September 2004. There currently stands on the property a dilapidated barn that the Antonoro's intend to tear down. They would like to construct a new barn on the property for storage. Mr. Williamson further explained that the couple's son owns the adjacent property.

Mr. Williamson read Section 180-21E,

"A use is not a permitted accessory use if the principal use is not in place at the time of the creation of the attempted accessory use, except an accessory use in place as a permitted accessory use which is on property that is subdivided resulting in a new subdivided lot or parcel not containing a permitted principal use shall be a permitted accessory use, provided construction of the principal use is commenced within the subdivided lot or parcel within one year of the Planning Boards resolution approving the creation of the subdivided lot or parcel and completed one year thereafter. If no principal use is constructed within one year of the creation of the subdivided lot or parcel then the accessory building shall not be a permitted accessory use and shall be removed by the owner of the property.

Discussion ensued regarding the requested use variance with zoning board members in agreement that the variance would be in direct violation of both Sections 180-10B & 180-21E of the Walworth Town Code. Phil Williamson stated that the Section 180-21E is in place to prevent absentee use of land when the owner is not present. There was no public comment.

Tony Laga closed the public hearing.

Pam Knapp made the following motion, seconded by Jim Hinz for the denial of the application of Mr. and Mrs. Gary Antinoro for a Use Variance.

I move, that 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 following criteria set forth in Section 267-b(2) and finding:

1. Lack of Reasonable Return
The subject property is located in a RR-1 District: Single-Family Residential. Since the property is zoned for single family residential and could be sold for that purpose the denial of the requested variance would not change the ability to realize a reasonable return if the property were offered and sold for its intended use.
2. Unique Circumstances
The alleged hardship relating to the property is not unique since the zoning §180-10B and §180-21E not allowing an accessory use without first establishing a principle use on already subdivided land applies to all parcels in the RR-1 District: Single Family Residential.
3. Essential Character of the Neighborhood
The granting of the variance will cause an undesirable change in the character of the neighborhood or a detriment to nearby properties because the intended use is residential and the introduction of an accessory use without first establishing a principle use is not allowed under the Town Zoning.

4. Self-Created Hardship

The alleged difficulty is self created because the applicant can achieve the desired results by first establishing a principle use and then the accessory use would be permitted without a variance under the RR-1 District: Single Family Residential Zoning.

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

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

Motion carried.

The meeting was adjourned at 8:08 P.M.

Respectfully submitted,

Gail Rutkowski
Zoning Board Clerk