

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 7:06 PM. Members present: Karel Ambroz, Jim Hinz and Pam Knapp. Town employee present was Phil Williamson, Code Enforcement Officer and Patti Mariani.

Pam Knapp made a motion to approve the minutes of May 1, 2006, seconded by Karel Ambroz.

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

Motion carried.

- 1. Application of Mike & Carol Fayette for Area Variance located at 4768 Ontario Center Road to allow horses to continue to be stabled in the barn that is 15 feet from the North property line. The property is located in a RR-2 District. The applicant seeks relief from Walworth Town Code 180-11A(2).**

Tony Laga opened the public hearing.

Mike and Carol Fayette of 1303 Sweets Corner Road, Penfield was present to discuss the application. Ms. Fayette stated that they are in the process of selling their home on 4768 Ontario Center Road. They are coming before the Zoning Board requesting an area variance to allow horses to continue to be stabled in the barn that was built in 1982 that is 15' from the north property line. When the Fayette's purchased the property in 1979 there was another barn on the property that also stabled horses, but the original barn was torn down after a fire. Ms. Fayette stated that in 1982 a building permit was issued (#22, dated 4/14/82) and the application specifically stated "horses/equipment" as the intended use. Ms. Fayette further stated that the property is in an agricultural zone. Because of the long-term use as a horse property, Ms. Fayette stated that she feels that the next owner should be able to continue to use the barn for horses. She further stated that if they were denied the request, it could impact their ability to sell the property.

Tony Laga asked, "Was the barn built over the footprint of the original structure?"

Ms. Fayette answered that it was not built on the same footprint. The original barn was located behind the current structure.

Pam Knapp said that she visited the property and that the barn has four horse stalls and an area to store equipment. Pam Knapp questioned if the original barn was 100' from the property line. Ms. Fayette responded, "no".

Karel Ambroz questioned the Zoning Code at the time the barn was built. Phil Williamson responded that previous to 1969, a barn had to be 200' from the nearest property line. The requirement was changed to 100' in 1969. Phil Williamson further stated that the barn was built with the knowledge of Town Officials and a valid permit was issued. The applicant went through the proper channels and the applicant would have no way of knowing at the time that the building was not in compliance.

Karel Ambroz questioned how the manure is disposed of? Ms. Fayette explained that it is stockpiled behind the barn and that for the past few years they have owned only one horse.

Discussion ensued about disposal of manure. Tony Laga stated that the manure pile should be no closer than 100' from any occupied building. Karel Ambroz stated that requiring the owner to have the manure collected in a dumpster and hauled away would set a precedent for the Town and he felt that the Zoning Board did not have the authority to make that stipulation. Instead stockpiling the manure and removing on a regular basis for health reasons would be his recommendation.

Karel Ambroz questioned whether future owners would intend to use the barn for commercial use. Phil Williamson stated that any new owner would need to obtain a "Home Occupation Permit" for any commercial use. Mr. Ambroz stated that it would be important that any prospective buyer be made aware of this before purchasing the property.

Tony Laga stated that he would be in favor of placing conditions on the approval; such as, limiting the number of horses stabled to four. He further stated that he would like to stipulate that all horses belong to the homeowner and no commercial use; for example, boarding of horses be allowed. Karel Ambroz stated that he did not think it was necessary to stipulate this, as it would be covered in the "Home Occupation Law". Pam Knapp and Jim Hinz concurred that it would not be necessary to impose that condition on approval. After some discussion, Mr. Laga continued to favor stipulating that no commercial use be allowed.

There was no public comment.

Tony Laga closed the public hearing.

Pam Knapp made a motion, seconded by Jim Hinz to approve the application of Mike and Carol Fayette for an Area 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 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 building has been previously used for horses.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because the property is such that the building cannot be placed any other place to effect the 100' setback.
3. The area variance is substantial because the variance is greater than 75% - 15' off the side property line.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because it is a preexisting condition.
5. The alleged difficulty was not self-created; however, because this building was built with prior approval of the governing body (permit #22 issued 4/15/1982).

And that the variance be granted since the benefit to the applicant outweighs the detriment to the health, safety and general welfare of the neighborhood or the community.

This Board finds that the findings it has made as set forth in factors 1, 2, 4 and 5 outweigh the findings it has made as set forth in factors 3 and that substantial emphasis be given to factors 1, 2, 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.

And further, the following conditions be imposed:

1. storage and/or stockpiling of manure shall be at the eastern most reasonable point of the property,
2. maximum of four equine species and the building shall be used for the original intent; equipment storage and horses.

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

Motion carried.

- 2. Application of Sherri Longyear for Use Variance located at 1830 Sherburne Road to allow a portion of the garage to be used to provide handicapped accessibility office for therapeutic massage business. The property is located in an R District. The applicant seeks relief from Walworth Town Code 180-35G. (Application withdrawn by applicant.)**
- 3. Application of Philip L. Serafine for Area Variance at Red Fox Circle (off Whitney Road) to allow six ½ acre lots in an RR-1 District that requires a minimum lot size of 1 acre. The applicant seeks relief from Walworth Town Code 180-10D. (Application withdrawn by applicant.)**

Jim Hinz made a motion, seconded by Karel Ambroz to adjourn the meeting.

Motion carried.

Meeting adjourned at 7:35 P.M.

Respectfully submitted,

Gail Rutkowski
Zoning Board Clerk