

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.

Karel Ambroz made a motion to approve the minutes of March 6, 2006, seconded by Pam Knapp. There was one correction on the approval of the previous minutes: in paragraph 2 of page 415, August 15, 2006 should read August 15, 2005. Motion carried.

- 1. Application of Paul and Susan Bellanca for Area Variance located at 1741 Plank Road to allow applicant to construct a shelter roof with supporting poles for beef stock weather protection that will encroach upon the 100 feet from the property line for a building housing livestock. The property is located in an RR-1 District. The applicant seeks relief from Walworth Town Code Section 180-10A(2).**

Tony Laga opened the public hearing.

Susan Bellanca was present to discuss the application. Ms. Bellanca stated that the shelter roof with supporting poles for beef stock weather protection would be located 98.8' from the property line. The roof would be attached to the pre-existing barn at the north side. The property consists of 28.70 acres and they would like to raise some beef cattle. Karel Ambroz questioned if the applicant intended to use the shelter for any other purpose aside from sheltering animals, such as storing farm equipment. Ms. Bellanca answered, "no". The Board questioned how many sides of the shelter would be open. Ms. Bellanca answered that the shelter would be open on three sides. There were no further questions from the Board.

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 Paul and Susan Bellanca 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 it is a minimal change to a pre-existing structure.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because the shelter could be freestanding, but the applicant chose to attach the shelter roof onto the existing building for structural support.
3. The area variance is not substantial because the shelter roof encroaches only 16 inches into the 100-foot requirement.
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 farm structure and the shelter roof is consistent with the original purpose of the building and it is at the backside of the building.
5. The alleged difficulty was not self-created; however, because the applicant chose to add the shelter, but it is a minimal deviation.

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

And further, the variance is granted with no conditions imposed.

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

Motion carried.

2. Application of Thomas McGlory for Area Variance located at 3454 Dewberry Lane. Applicant is requesting a variance for a side setback on an existing pool deck that was built by the previous owner. The property is located in a PD District. The applicant seeks relief from Walworth Town Code Section 180-17A(2) – Filed and Approved Plans Control Setback Requirements.

Tony Laga opened the public hearing.

The applicant was not present. Mr. Laga clarified to the Board that Mr. McGlory was no longer owner of the property, and the new owner Jonathan Smith had been living in the home since the closing.

Phil Williamson further explained that when Thomas McGlory purchased the home in 2004, the pool and deck was already on the property. The previous owners failed to obtain a building permit when constructing the deck and the town was unaware that deck was added and encroached upon the side setback of the neighbors, David and Leticia Bridge of 3450 Dewberry Lane. A privacy fence along the property line, blocks the view of the fence. Mr. McGlory became aware of the problem during the process of selling his home when the attorney requested documentation showing that the deck was in compliance. On March 15, 2006 Mr. McGlory applied for a permit for the deck from the Town and is requesting an area variance to satisfy requirements for the sale of his property.

The Board was in receipt of a letter from the neighbor, David Bridge:

“This is to acknowledge the easement of the deck surrounding the pool at 3454 Dewberry Lane in their backyard is acceptable to us their neighbor. The property line easement of 5 feet does not impact or infringe our view with the deck at its current location. The owner’s fence obstructs our view of the deck at its current location. We do not mind its current location in regards to our property.”

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 Thomas McGlory for an Area Variance.

I move, after considering the benefit to the applicant 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 it is a pre-existing condition and there is a privacy fence.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because the deck was already there when the applicant purchased the property.

- 3. The area variance is substantial because the deck encroaches ¾ of the width 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 a pre-existing condition caused by a previous owner.
- 5. The alleged difficulty was self-created; but it was caused by a previous owner's failure to obtain the proper building permit.

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

And further, the following conditions be imposed:

- 1. No additions shall be made to the current structure.
- 2. If the current structure is removed and replaced, the new structure shall be made from a nonconforming to a conforming structure.

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

Motion carried.

Karel Ambroz requested that in the future that the applications be distributed to Zoning Board members prior to the Legal Notice appearing in the paper to allow ample time to visit the sites.

Jim Hinz made a motion to adjourn, seconded by Karel Ambroz at 7:34 P.M.

Respectfully submitted,

Gail Rutkowski
Zoning Board Clerk