

Chairman Ken Masker called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:01 PM. Members present: Tony Laga, Karel Ambroz, Pam Knapp and Jim Hinz. Town employee present was Phil Williamson.

Pam Knapp made a motion, seconded by Jim Hinz to approve the minutes of October 2, 2006 as presented.

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

Motion carried.

- 1. Application of Daniel & Ellen Cullen for Area Variance located at 3702 Deer Meadow Run for a shed that is currently located 5.0 feet from the side property line, instead of the 10 feet as required on the approved Crystal Creek Section Plan. The property is located in an RR-1 District. The applicant seeks relief from Walworth Town Code Section 180-21(B).**

Chairman Masker opened the public hearing.

Mr. Daniel Cullen of 3702 Deer Meadow Run was present to discuss the application. He explained that he had applied for a permit in April 2004 and was waiting for the permit to arrive in the mail. Mr. Cullen stated that in the meantime he laid gravel for the shed 5 feet away from the side property line, based on "what people told me". The day before Chase Pitkin was to install the shed, he went into the building department to pick up the permit and at that time was told by Norm Druschel that the shed needed to be 10 feet from the property line. Mr. Cullen asked Norm what he should do, as the stone was already in place and the shed was scheduled to be installed the next day. Norm Druschel stated he could go before the Zoning Board of Appeals and try to get a variance, but to be in compliance the shed needed to be 10 feet from the property line.

After returning he decided to go forward as planned with the scheduled installation the next day, as he didn't have time to move the gravel. Mr. Cullen explained that he chose the location for the shed to allow his three children to have full use of the back yard and to allow enough space between the gazebo and shed for utility vehicles to go through if need be.

The Board was in receipt of a letter from a neighbor, Douglas Krist of 3706 Deer Meadow Run dated, May 10<sup>th</sup>, 2004 that stated:

"Mr. Cullen is planning on building a small storage structure near the boundary line of his property and mine. He has shown me the plans and we have discussed the location extensively. It is my opinion that the location he desires to build the structure on is acceptable to me."

Ken Masker questioned, "Is there any kind of foundation under the building?" Mr. Cullen responded, "Just stone."

Pam Knapp asked, "Were you given any direction at the time you filled out the permit?" Mr. Cullen responded, "Norm did explain that I would need to apply for a variance to put the shed 5 feet from the property line." Pam asked, "Was that the day before the shed was installed?" Mr. Cullen responded, "yes". Pam further questioned, "prior to that time, did anyone from the town tell you how far off the property line you needed to be?" Mr. Cullen responded, "no, only the neighbors".

Tony Laga questioned if the 10 foot notation on the survey map was put there by Norm Druschel. Mr. Cullen responded, "yes, the day I picked up the permit." Mr. Cullen stated that the variance process was explained to him.

Karel Ambroz questioned why over two years had passed and he hadn't applied for a variance? Mr. Cullen responded that he is appearing before the Board at this time in response to a letter, dated September 14, 2006 from Norm Druschel that stated that he needed to renew the building permit, as there has not been a certificate of compliance issued. The letter stated in part:

"I did stop and do an inspection and the shed encroaches on the required setback of 10 feet from the property line. The shed needs to be moved to the proper location before a certificate of compliance can be issued."

Karol Ambroz questioned if the shed was anchored down? Mr. Cullen responded, "no, it is just sitting on the stone".

Jim Hinz asked, "What is the distance between the shed and gazebo?" Mr. Cullen responded, "approximately 15 feet."

Tony Laga suggested that if Mr. Cullen were to move the shed further back he could probably maintain the same distance between the shed and the gazebo. Mr. Cullen stated that there were monkey bars and a swing set anchored to the ground. Pam Knapp questioned if there would be adequate space to get a vehicle between the house and a fence on the north side of the house. Mr. Cullen responded that he would have to cut some trees.

There were no further questions from the Board.

Ken Masker closed the public hearing.

A motion was made by Pam Knapp, seconded by Karel Ambroz:

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(3a) 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 shed is similar in nature to the other sheds in the neighborhood.
2. The benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue because the shed could be moved to another location.
3. The area variance is substantial because it is a substantial fraction 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 the shed does not impede drainage or other environmental factors.
5. The alleged difficulty was self-created; however, because the applicant was aware of the requirements prior to installing the building.

This Board finds that the findings it has made as set forth in factors 2, 3 and 5 outweigh the findings it has made as set forth in factors 1 and 4 and that substantial emphasis be given to factors 2, 3 and 5 because sufficient basis for granting the variance was not established 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.

And further, the following condition be imposed:

1. The shed be brought into compliance with code by July 1, 2007 and the building inspector notified to confirm that the condition has been corrected.

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

Motion carried.

**Other Business**

- The 2007 Zoning Board of Appeals Calendar was distributed. Gail Rutkowski requested that members review the calendar and get back to her before December 1, 2006 if they have any concerns.
- Tony Laga asked about the possibility of Zoning Board members being reimbursed for mileage to check out the building sites prior to each meeting, stating that other towns reimburse for mileage. Chairman Masker agreed to bring up this topic with Robert Plant, Town Supervisor.

Tony Laga made a motion, seconded by Pam Knapp to adjourn the meeting.

Motion carried.

The meeting was adjourned at 7:45 P.M.

Respectfully submitted,

Gail Rutkowski  
Zoning Board Clerk