

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday, September 25, 2023**

PRESENT: Chairman David Hennel, Dick Schlansker, Brian Peterson, Barry Suydam and Charles Beers.

ABSENT: None.

ALSO ATTENDING: Attorney: Colleen Pierson, Esq.; Deputy Building Inspector: James Pangburn; Planning Department: Nicholas Chiavini; Stenographer: Kristen Bode

Chairman Hennel called the meeting to order at 7:00 pm.

MOTION: To accept the August 28, 2023 minutes. The minutes were approved unanimously.

MOVED BY: David Hennel

SECONDED: Brian Peterson

AYES: 5 (Hennel, Schlansker, Peterson, Suydam, Beers)

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION CARRIED

PUBLIC HEARING

- 1) Application of Ted & Kate Duma, 1 South Court, Glenville, NY 12302,** for the installation of an above ground swimming pool and a 6 ft fence. This property is located in the Suburban Residential Zoning District. It is identified on the map as parcel# 22.6-4-21

In accordance with the Codes of Glenville, the following variances are requested:

270-9c – Location - No permitted accessory structure shall be located in any front yard. This property is a corner lot and has two front yards as per town code. Therefore, the

applicant is seeking a variance to install an above ground pool in the front yard facing Berkley Rd.

270-52C(2) – Fences. Fences on residential properties will not exceed four feet in height in the front yard, including alongside lot lines to the front of the front plane of the dwelling. Therefore, the applicant is seeking a variance to install an 6ft fence in the front yard facing Berkley Rd.

B. Peterson read the application and the review factors for the variance request into the record.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: The proposed pool and fence variance will not bring any undesirable changes to the overall character of the neighborhood or to surrounding neighbors. Both the pool and fence structures will be installed by highly reputable companies using high quality products that will add to the value of the neighborhood.

Additionally, we have attached supporting documents from several surrounding neighbors that are in support of the proposed pool and fence variance.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: Due to the layout of our lot, we are unable to install the swimming pool and fence without the variance. The only viable space for the pool is our side lot. While the side lot is considered a “front” yard by the Town, the pool would not be located in our actual front yard.

Additionally, our plot plan highlights that we don’t have any space available in both our backyard and to the right side of the residential home. The leach fields for our septic system require the full length of our backyard and therefore is not a usable location for the pool. We have very limited property to the right of our residential home.

The variance is required for the fence height because the fence will be used to enclose the pool and will not enclose our entire yard or be located within our actual front yard. Because the side lot is the only viable location for the pool, the 6-foot fence variance would provide our family with safety as well as privacy when utilizing the pool. Additionally, we currently have a 6-foot-high residential fence located within our backyard. Having a consistent height for the fence would benefit surrounding neighbors as well. As our plot plan outlines, the location of the fence will be far enough from both roads so that there will be no impact to visibility for neighborhood traffic as a result of the 6-foot height.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: The requested variances are not substantial compared to the dimensions allowed by the zoning code. As our plot plan indicates, the only viable location for a pool is on the side lot. The pool will not be located within our actual front yard. The fence will be located 55 feet away from South Court. The fence variance is not substantial compared to the dimensions allowed by the zoning code. We are requesting the 2-foot variance for a 6-foot-high fence to ensure the pool is enclosed safely. Also allowing for privacy and to create consistency with our existing backyard 6-foot fence. As our plot plan outlines, the location of the fence will be far enough from both roads so that there will be no impact to visibility for neighborhood traffic as a result of the 6-foot height.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: The variances will not have any adverse impact on the physical or environmental conditions of the neighborhood or district. The plot plan highlights how the proposed location for the pool and fence will be constructed so they meet the requirements for the distances from the main streets, the residential structure, as well as septic and leech fields. Both the pool and fence structures will be installed by highly reputable companies using high quality products that will add to the value of the neighborhood.

5. Whether there has been any self-created difficulty.

Answer: No, this has not been a self-created difficulty due to the layout of our lot, specifically the leech fields taking up the entire backyard. The side lot is the only viable place that exceeds the space requirements to have a pool and a fence. The 6-foot fence height ensures we can enclose the pool safely while having a consistent fence height to align with our existing fence in the neighborhood. As our plot plan outlines, the location of the fence will be far enough from both roads so there will be no impact to visibility to neighborhood traffic as a result of the requested 6-foot height.

The application was signed by the property owner on September 1, 2023. Notice of the application was mailed to 54 property owners within 500 feet. This was not a County referral.

--Form letter dated August 31, 2023--

"To Whom it May Concern:

Our neighbors, Ted & Katie Duma have brought to our attention the variance that they are requesting thru the zoning board. They have shared with us their proposed plan to install an above ground swimming pool along with a 6-foot privacy fence to enclose the pool on their side lot.

As a neighbor, we would like to extend our support for their plans and have no issues or complaints related to granting them the variances that they are requesting.

Below is my contact information if you have any questions.

Thank you.

Signed,
Robin Gilbert, 7 Berkley Road, Glenville, NY
Lindsey Womer, 10 Berkley Road, Glenville, NY
Lindsay and Ryan DiMaso, 12 Berkley Road, Glenville, NY”

--E-mail to applicant dated August 30, 2023--

“To Whom it May Concern,

Our neighbor, Katie Duma has brought to our attention their desire to install a privacy fence and a pool on their property which is kitty corner to our home. My spouse, Chris and I would like to extend our support for their plans for home improvement within our neighborhood. We are long standing members of this neighborhood, we have lived at 128 VanBuren Road for more than 2 years and Amber’s family has owned this property since 2001. Furthermore, for the safety of their own children and the children of the neighborhood, we fully support and have no issues or complaints with their plan for fencing and feel it would only be an asset to the neighborhood and surrounding property values. Please feel free to reach us at 518-321-8403 with any questions or concerns that we can assist with.

Thanks,
Signed by Amber and Chris McDaniel”

D. Hennel stated the self-created difficulty, the zoning was in effect when you bought the house. It is self-created. You have to pass a majority of the criteria, but it is self-created because you’re choosing to put it there.

Chairman Hennel asked if the applicant wanted to add anything to the application.

Ted Duma stated no, I feel we explained it the best we could, and it sums up everything we’re trying to do.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

D. Hennel asked Jim Pangburn - the bright white fence in the backyard is 6-foot and is in the front yard already - how did that get there? We don't allow 6-foot fences in the front yard.

J. Pangburn stated they pulled a permit, and they were replacing an existing fence.

D. Hennel asked so you had a fence back there before, so you replaced it?

Kate Duma stated our fence person put in the permit.

D. Hennel stated technically that fence might not be legal if that's true. If you were replacing a fence or maybe the neighbor used to have a fence and you thought it was yours but even the fence that's there is not legally allowed because it's in that side yard. Again, you are on a corner lot, you do have two (2) front yards. Even that part of the fence closer to the house than Berkley is technically already in the front.

T. Duma stated we went through the permit process. We asked permission to the best of our knowledge.

D. Hennel stated the letter directly across South Court - is that on Berkley?

C. Beers stated 4 and 6 Berkley have direct line of sight to the property.

D. Hennel stated we don't have any letters from them.

T. Duma stated one of them - I'm assuming number 6 [Berkley], no one lives there.

D. Hennel asked straight across from you?

T. Duma stated yes - right across from South Court.

D. Hennel stated the one behind you on Berkley - granted there is the fence line.

T. Duma stated yes - we didn't go through the trouble.

C. Beers stated people with the direct line of sight to the proposed pool - you didn't talk to.

K. Duma stated one of them we did - the one we have the e-mail from. She's on the other side of the people behind us. The e-mail from Amber and Chris McDaniel.

C. Beers stated 128 VanBuren Road.

T. Duma stated yes. It's that corner that goes onto Berkely Road.

C. Beers stated they have a tree line and a fence between your proposed pool and their home. Correct?

K. Duma stated correct, but they still can visibly see our yard. They have a 4-foot fence so they can see over it.

C. Beers stated the people that have direct line of sight to it, we don't have anything from.

T. Duma stated yes.

D. Hennel asked it is an above ground pool and not an inground pool?

K. Duma stated yes, an above ground.

D. Hennel asked the fence - are you doing the same white vinyl?

K. Duma stated yes.

D. Hennel stated you fail the front yard twice. One thing I always look at, while it's a side yard - is it the front yard of your neighbor. The people across from you, if they walked out of their house, faced Berkley and looked right or left, would they see this. The answer there is yes for both. If you were set way back - you may be putting it in your front yard but it wouldn't be in their front. The other thing that's causing me concern is in that district the Town requires 30 feet from the road. Both the pool and the fence are within 30 feet.

J. Pangburn asked where is the 30 feet from the road?

D. Hennel stated the front yard setback for suburban residential - minimum front yard setback is 30 [feet].

J. Pangburn stated for the principal dwelling. It would just need to be out of the right of way, which is probably a 50 or 60 foot right of way so it would have to be either 25 feet or 30 feet from the center line of the road.

D. Schlansker stated we were provided a plan of your property. Was this a survey you took this off of? For example, when you give these dimensions of 55 feet or 10 feet off of Berkley and 55 feet from South Court - did you literally go out with a tape and start at the edge of the road to measure?

T. Duma stated we measured ourselves.

D. Schlansker asked is the proposed fence off of Berkley going to be in the right of way or do we know if it's even on their property? Is it 30 feet from center line of road?

J. Pangburn stated it depends on the neighborhood but they're either 50 or 60 feet.

R. Schlansker asked is that the responsibility of the building department to make sure it's on their property?

J. Pangburn stated the Department of Public Works (DPW) would go out and make that call. If they were approved for a permit, they would have to get that done.

D. Hennel stated we're saying potentially 50 or 60 feet from center line?

J. Pangburn stated I can go grab the book to see what Berkley Road is.

D. Hennel stated so if you're doing 50 feet from center -

J. Pangburn stated it will be either 25 feet or 30 feet from center depending on the right of way.

C. Beers stated I'd like to know that for Berkley.

D. Schlansker stated that was my only question - the accuracy of this drawing shared with us this evening.

D. Hennel stated the questions I was asking regarding the inground verses above ground - if it's inground and you have the black fence you can see through, it's not so obvious. The thing that concerns me is - you're driving down Berkley, this fence is going to be extremely close to the road and it looks like you're driving down a tunnel.

B. Suydam stated your leech field on the plot plan - are you sure that's where it is?

T. Duma stated it's the mound. The leech pipes probably don't go out that far, but the mound is there.

D. Hennel asked any option to move the shed and put the pool on the other side?

T. Duma stated no, it wouldn't fit. We don't have enough property space. That is a friendly size, it wouldn't be able to be 10 feet from our house and the neighbor's property.

B. Suydam asked why do you want the 6-foot fence?

T. Duma stated for privacy. Ultimately since it's an above ground, the pool is about 4 ½ feet tall. A 4-foot fence doesn't provide any privacy. We're not doing our whole - it's about a little more than half of that side lot. It's not coming up to the front of our house. It's considered the front because it's on the side there.

K. Duma stated to add - it's also for safety. We have two (2) small children, as well as a lot of neighborhood children so we'd like to fence it in so it's not accessible.

B. Suydam stated the self-closing gate that you're required to have for an above ground pool would also help that. Would you be ok if we made a condition instead of the 6-foot fence, you did 4-foot and planted shrubs that would give you 8-feet privacy?

T. Duma stated that's additional costs with maintenance to do the same thing a fence would.

K. Duma asked what the benefit of that would be as opposed to a regular fence?

B. Suydam stated you're asking for a two-foot variance on a front yard fence, and you could get more privacy.

T. Duma stated it's essentially what our neighbor across the street has but again, I would rather not go that route when it's going to do the same thing a 6-foot fence would do. It's more maintenance, I don't want to maintain these extra trees.

C. Beers asked the applicant to sketch in where the fence is.

T. Duma stated we don't have a fence there, just the back side.

C. Beers stated we talked about you're going to build a fence for safety to keep neighborhood children safe - and then you leave half of it open.

T. Duma stated yes.

C. Beers stated you're not trying to contain the whole thing at that point.

T. Duma stated yes - that's not our plan as of right now.

D. Hennel asked Jim Pangburn if he got the answer [regarding right of way].

J. Pangburn stated Berkley Road is a 60 foot right of way. So, 30 feet from the center line of the road.

D. Hennel stated they're putting the pool on the edge of their right of way.

D. Schlansker stated the road could be anywhere from 22 feet to 30 feet wide. I don't know what Berkely Road is exactly.

D. Hennel stated you probably can't even put the fence there because you don't own it.

J. Pangburn stated just because you have grass all the way up to the road, doesn't mean you own that. You need to measure from the center line of the road, in 30 feet and that would give you where that yellow line is on your property. The only way to accurately do that is to have our highway department come out and mark it for you or have it surveyed.

T. Duma stated if the road is 40 feet wide, that's 20 feet and another 10 feet. We're potentially keeping the 10 feet away from the road. As long as that's 20 feet to the middle, that satisfies the 30 feet.

D. Hennel stated we're saying the road is probably between 22 and 30 feet. That means 15 feet and the Town still owns another 15 feet and you've got the pool at 15 feet. You physically couldn't put the fence there.

K. Duma stated we have room - is there a requirement how far we can move it in further.

T. Duma stated then we're not 10 feet from the house.

D. Hennel stated I don't even know if you're 10 feet from the house in the picture when you add.

C. Beers asked would it be worth taking the time to put it before the Town Highway department and table it for tonight?

J. Pangburn stated if you do approve it, they would have to go through the measure to ensure it's not in the right of way.

D. Hennel stated you're asking for total relief of both the fence and the pool. If the fence is being moved back 15 feet, it's not nearly as close to the road but it's still really close and you're in the front yard of all your neighbors. If the one across south is abandoned, that's fair but the one across Berkley is going to stare straight at it.

C. Beers stated to your own point - you didn't take the time to go check.

T. Duma stated yes, that one neighbor we didn't realize.

K. Duma stated we have no problem approaching all of those neighbors. My understanding on this process was that was not a requirement. I went out of my way to pool the neighbors I could get ahold of going door to door. I was not able to get everyone, I did not know that was a requirement.

C. Beers stated everyone you pooled is not in direct line of sight.

K. Duma stated I would say the one on VanBuren is in direct sight.

C. Beers stated we disagree on that. If we move to deny it tonight, you are out of options.

D. Hennel stated you are correct - it is not a requirement to get everyone to sign. When there is total relief on multiple things, you're asking for a lot. If everyone is in favor, you're still asking for a lot. If you want to check with Highway and figure out and see about moving the fence back. If you want us to vote on what you proposed today, we certainly can.

T. Duma stated as opposed to denying it, if it's worth it getting the other letters we can.

C. Beers stated if it's a denial tonight and you come back with a different plan, you're going to pay again.

D. Hennel stated I'm almost positive the fence is going to be in the right of way so you're going to have to move it. When you come back with something that is less intrusive, we can look again. It's still total relief. I don't want to give you false hope.

C. Pierson stated it's not a guarantee it's going to be approved if you come back with changes but it allows you to try and fix some of these things.

T. Duma stated if those are our only two options, then we'd like to collect more information. I'd like to get an accurate measurement, so we know exactly.

C. Beers stated it becomes difficult when you're dealing with Google earth and a drawing that is not drawn to scale.

T. Duma stated we tried to measure our best.

D. Hennel stated we try not to always require a survey because it's expensive to do it but when it looks like it's so close, it may be necessary.

T. Duma requests to table the application.

MOTION:

To table this application to the next Zoning Board of Appeals meeting or when the applicant comes back.

MOVED BY: Chairman Hennel

SECONDED BY: Charles Beers

AYES: 5 (Hennel, Schlansker, Peterson, Suydam, Beers)

NOES: 0

ABSENT: 0

MOTION GRANTED

- 2) Application of Anthony Stone, 1345 Washout Rd, Glenville, NY 12302,** for the construction of a 48'x64' barn. This property is located in the Rural/ Agricultural Zoning District. It is identified on the map as parcel# 13.-1-49.2.

In accordance with the Codes of Glenville, the following variances are requested:

270-9F (3) – Accessory uses and structures. Accessory structures shall not exceed 2400 square feet in the Rural/ Agricultural Zoning District. The applicant is proposing the construction of a 48'x64' barn square feet. A variance of 672 square feet is requested.

270-9c – Accessory uses and structures location. No permitted accessory structure shall be located in any front yard. The applicant is proposing to construct a 48'x64' barn. Therefore, the applicant is seeking a variance to install the 48'x64' barn in the front yard.

270-9D – Accessory uses and structures. Height. No accessory building or structure shall exceed 15 feet mean height. The applicant is proposing a 48'x64' barn with a mean height of 22.6 feet. Therefore, a variance of 7.6 feet is requested.

B. Peterson read the application and the review factors for the variance request into the record.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: As shown on the survey the new barn will be set back far enough behind my neighbors property with a wooded barrier that it wouldn't be visible from the road. The area is surrounded by trees and the building will look like a typical barn similar to other barns in the area. It will not affect any surrounding properties as it is replacing the existing building and the size is only increasing toward the direction of my house.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: There is not enough land behind my house to build a new barn, my only options are in front of the front plane of the house. The height has been carefully considered as we want to be able to park a motor home in it when not in use. We took advantage of slopes in the land to keep part of the roof lower in our design, however, we cannot decrease the height and be able to accommodate a large motor home. As for dimension, we plan to remove 2 older sheds on the property and fit it all into the nicer looking new barn, which requires more than 2400 sf. There is no attached garage and will be no other accessory structures.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: The variance requests are not substantial as compared to the building that is being replaced but it is however slightly larger in an attempt to remove other storage buildings on property and move it all into a single building with a nicer appearance.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: There will be no adverse effect or impact in the neighborhood. The plan is for a basic barn that is to replace the existing building. The new building will be surrounded by natural trees and vegetation buffer.

5. Whether there has been any self-created difficulty.

Answer: No, replacing the existing building was specifically to avoid creating any difficulty.

Notice of the application was mailed to 15 property owners within 500 feet. This was not a County referral.

--Letter from applicant, Anthony Stone--

To Whom it May Concern:

I am resubmitting my variance application for the construction of an accessory structure at 1345 Washout Road, Glenville, NY, following your decision to deny my initial request. The revised plans have been developed to reflect the feedback from both the community and the appeals board, aiming to better align with zoning codes.

The updated design proposes a 64x48 barn, which significantly reduces the square footage by eliminating the previously included 34x28 workshop. This adjustment brings the total square footage closer to the allowable limit, addressing one of the key reasons for the denial on my initial application.

I have personally spoken with my neighbors to address their concerns. Specifically, Mr. Milewski at 1452 Washout Road initially objected due to a misunderstanding about the structure's location. After clarifying that the building will be set back and hidden behind trees - making it nearly invisible from the road - he verbally expressed that he has no objection to the project. I am in the process of securing a formal letter of support from him before the next public appeals meeting.

Additionally, I've had a discussion with Mr. Weisgerber at 1256 Washout Road. While I understand his concerns about potential commercial activities, I want to clarify that I have no plans to run a business out of this barn. My intentions are solely for recreational purposes and are consistent with what would typically be expected in the RA zone.

Due to the time constraints I'm facing, particularly with the onset of winter and my current temporary storage situation, I kindly request an expedited review of the revised plan.

Thank you for your time and consideration. I look forward to a favorable response.

Signed,
Anthony Stone"

Chairman Hennel asked if the applicant wanted to add anything to the application.
Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

D. Hennel asked Jim Pangburn - going back to notes from last meeting, if he had gotten a demolition permit and you had measured, he could have rebuilt the size he previously had.

J. Pangburn stated correct. He still can because I do have record of that structure. That was a 25' x 48' structure. The previous structure was 1,200 square feet.

A. Stone state I don't think that's accurate. What is that based on?

J. Pangburn stated the County ImageMate. The assessor has the previous structure built in 1995 that is 25' x 48'.

A. Stone stated 48' sounds right but it was much wider than 25'.

D. Hennel asked why does the barn need to be so long?

A. Stone stated the longest possible RV I looked at could be over 50 feet. By the time you add on accessories. I also want to be able to work around it especially after eliminating the workshop.

C. Pierson asked you don't have or own an RV yet?

A. Stone stated I have a camper. It's not 50 feet but probably 30 feet.

C. Pierson asked you don't own one currently that would require this space?

A. Stone stated no, not a 50-foot RV.

C. Beers asked about the contractor equipment.

A. Stone stated its side work stuff.

J. Pangburn stated it would probably be allowed based on the size of the business. If it's side work.

A. Stone stated there's no official business.

D. Hennel stated we would condition it can't be used as a residence. Storage of personal equipment. Typically, if there's concern about running a business, if we were to grant it - we would list that is can't be used as a residence and it's for storage of personal equipment and not be used as a business. You wouldn't be inviting people to come there and meet you as a business.

A. Stone stated I'd be good with those conditions.

C. Beers stated right now you're at 48' x 64' on your proposal. Are you willing to move on that at all?

A. Stone stated maybe a few feet shorter. I don't want to change the width because it will affect the door layout.

D. Hennel stated to eliminate that variance, he'd have to go down to 50'.

C. Beers stated your magic number would be 48' x 50'. You came back with three (3) variances.

C. Pierson stated for number two (2) on the application - whether the applicant can achieve their goals via a reasonable alternative. For the height variance being requested, he sites the motor home and as I just asked, he doesn't own it yet. The reasonable alternative perhaps for the height variance may be to buy a different motor home since you haven't purchased one yet.

A. Stone stated we have a camper which would still need the 13-foot door with the air conditioner on top. It's probably 12' 6" to the top of it.

C. Pierson asked how the new [RV] comes into play.

A. Stone stated the new [RV] will be a lot longer.

C. Pierson stated a lot longer - could you get a shorter one?

A. Stone stated I'm sure we could.

B. Peterson stated Camping World, a viable RV sales place, they have listed maximum motor home length is 45 feet, which includes fifth wheels and a maximum trailer length is 40 feet. I don't think you're going to get a 50-foot motor home.

A. Stone stated when you add the accessories on the back.

B. Peterson stated right but they could come off.

A. Stone stated yes but I still want to use the building while it's in there to have ample room around it.

B. Peterson stated if you're going to work on it or store it, that's two different things.

D. Hennel stated 48' by 50' meets the criteria. If you're saying 45' - that works. If you make it 44' wide, that allows you to go a little over 54' long. Then you'd eliminate that first variance. You've definitely reduced it but it's still a really big building.

A. Stone stated for it to be useful the way I want it to be, if we go much shorter I'm not going to build it at all. I can shrink it down a little bit but I'm still going to be over and need a variance.

C. Beers asked what are you willing to do?

D. Hennel stated you don't need the variance if you go to 50'. If you go 48' by 50', that variance is eliminated.

A. Stone stated if I get it down to 58' deep, it will still serve my purposes. That's shrinking it down quite a bit.

C. Beers stated 58' x 41' would get you under.

A. Stone stated I don't want to change the width because of the door layout. I spent a lot of time on that.

J. Pangburn confirmed the size - 48' x 58'.

D. Hennel stated the variance would then be 384 square feet.

A. Stone stated I'm willing to make some changes.

B. Suydam asked if the applicant can get a letter from Mr. Milewski?

A. Stone stated yes, I would. I kept missing him.

B. Suydam stated I read your application that you were going to try and get one for tonight's meeting.

A. Stone stated I wasn't able to get it, I kept missing him. I tried a few times.

C. Beers asked how do you get up to the second floor?

A. Stone stated we're going to leave it open rafters. We're not going to do anything up there.

D. Hennel asked the applicant if he was officially amending his application to be 48' x 58'.

A. Stone stated yes, if that's what I have to do.

B. Peterson stated you're going length by width.

D. Hennel stated we would be granting a variance of 384 square feet.

C. Pierson stated it's still three (3) variances he's asking for, which is substantial but it's up to the Board.

D. Hennel stated with regard to the front yard, he's set way back. Even his house and his lot are set back. That mitigates that a bit.

B. Peterson asked if we do 48' by 58', is it going to change the height?

D. Hennel stated I don't think so because the back is being cut off.

B. Suydam asked what the total square feet is.

D. Hennel stated 2,784 square feet. It would be a variance of 384 square feet on the allowed 2,400 square feet.

C. Beers stated approximately 15%.

A. Stone asked if you were to grant the variance for 384 square feet, would I be able to show that to my architect and we change it to 46' wide, would I be able to then go 60' length? If I stay within those parameters, can I have my architect make adjustments within those 384 square feet?

D. Hennel stated we'd be granting him a variance of 384 square feet to allow him to build a building that does not exceed 2,784 square feet total.

C. Pierson stated we have to make sure we're clear on what we're granting.

D. Hennel stated the benefit of saying we're allowing a 2,784 square foot structure and not saying it has to be 48' - if he does go down to 44' or 46' to give him more length, his height would actually be lower [if it get's approval], the variance is 7.6 feet. If he goes narrower, he's not going to use up all of that height.

C. Pierson asked are we capping the length at 58 feet?

D. Hennel stated we're capping it at 2,784 square feet, which is 48' x 58'

C. Pierson stated if they grant it on total square feet then yes, you would be able to go down on one end and up on the other end.

A. Stone stated perfect, that's what I'm asking in case we do make that adjustment.

B. Suydam stated the original plan you had, there was a grade change, slope, where you were going to have two (2) bays. How does that square footage integrate with the total square footage?

D. Schlansker stated that's eliminated. That was in the piece he took off.

D. Hennel asked if anyone else would like to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any other questions from the Board.

B. Suydam asked what the two (2) conditions were.

D. Hennel stated the applicant agrees the structure will not be used as a residence and for storage of personal equipment, not to be used as a business.

Chairman Hennel closed the public hearing.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 48' x 58' new barn at 1345 Washout Road, Glenville, NY and as identified on tax map # 13.-1-49.2 in the rural agricultural zoning district in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-F3 permitted size 2,400 square feet, proposed size 2,784 square feet and requesting a variance of 384 square feet and 270-9C permitted size cannot be in the front of the house. The proposed size is closer to the road than the house variance being requested is the location and 270-9D permitted size mean height, proposed height is 22.6 feet mean height and the variance requested is 7.6 feet because the proposed use of the property would be in violation of such restrictions and setback requirements of the zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on September 25, 2023, and after having considered the benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community; in particular,

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Finding of fact: No. The current barn set back is similar to the proposed structure. Trees will provide a natural barrier between the property line. Several residents provided signed approval of the project.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Finding of fact: No. The existing placement of the current structure provides an open space to erect the new improved structure. An attempt to move it to another spot on the property would make it more visible from the road.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: Yes. The three (3) variances requested are substantial. However, the structure proposed will greatly improve the neighborhood. The applicant is also consolidating approximately 500 square feet of other accessory structures. That would be favorable to the community and neighbors.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No. The applicant is replacing the current structure which in its current state is run down and, in an effort to consolidate other structures on the

property. This would have a beneficial impact on the neighborhood and community.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. There are very few instances where change to any property would be considered not self-imposed. That should not preclude the granting of an area variance.

CONDITIONS: 1) The structure cannot be used as a residence. It can only be used for storage of personal equipment.

 2) The applicant cannot run a business out of the structure.

Now, therefore it be resolved this application for an area variance be granted.

MOVED BY: Barry Suydam

SECONDED BY: David Hennel

AYES: 3 (Hennel, Suydam, Schlansker)

NOES: 2 (Peterson, Beers)

ABSENT: 0

MOTION GRANTED

3) Application of Ravi Persaud, 242 Wagner Rd, Glenville, NY 12302, for the construction of a 20'x30' garage in the front yard. This property is located in the Rural Residential/Agricultural Zoning District. It is identified on the map as parcel# 21.-1-14

In accordance with the Codes of Glenville, the following variances are requested:

270-9c – Accessory uses and structures location. No permitted accessory structure shall be located in any front yard. The applicant is proposing to construct a 20'x30' barn that will protrude into the front yard 7ft. Therefore, the applicant is seeking a variance to install the 20'x30' barn 7ft into the front yard.

B. Peterson read the application and the review factors for the variance request into the record.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: This will not produce an undesirable change because I spoke to my neighbor and no objection.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: There is a pond in the way and building will be projected only 7 feet closer than main structure.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: The dimension of building is not reason for variance, it's because of being closer to road.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: I don't think it will be an eyesore.

5. Whether there has been any self-created difficulty.

Answer: Self-created difficulty, sure. I have to pay for it, but I need it and this is the only spot.

The application was signed by the property owner on August 30, 2023. Notice of the application was mailed to 11 property owners within 500 feet. This was not a County referral.

A neighborhood approval sheet was signed by seven (7) neighbors.

Chairman Hennel asked if the applicant wanted to add anything to the application.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

D. Hennel stated it seems like you're in the middle of construction. If we're going to grant this, what are your plans for the front of your house? In terms of - driveway, gravel, trees, etc.?

Ravi Persaud stated the trees are dead. I have to take them down. The one fell on top of my power line. In the front of the house, I may black top. Other than that, I don't plan on doing anything else. I have a riding mower, a tractor and two (2) quads.

D. Hennel asked do you have any further from a design in terms of what it's going to look like. We see the size. What's the exterior, what's the overhang.

B. Suydam asked if it will be sided with vinyl siding.

R. Persaud stated the color is stone with red trim and the door will be aluminum. It will be the same color as my house.

B. Suydam asked if the garage doors will face the road.

R. Persaud stated yes - two (2) garage doors.

B. Peterson asked if cars will be stored in the garage or just tractors.

R. Persaud stated yes - cars as well.

D. Schlansker stated the applicant answered one of my questions - making sure the recreational vehicles would be stored within the building. Correct?

R. Persaud stated yes.

D. Schlansker stated another question I had is regarding the propane tank.

R. Persaud stated the propane is for the gas for the stove.

D. Schlansker stated the propane tank you have in your front yard - is that going to remain there or can that be relocated when you do the construction so it's not so close to the road?

R. Persaud stated it's going to remain there. I bought it like that. I don't plan on moving it, unless -

D. Schlansker stated I understand why it was there originally because of the configuration of the storm water problems. Now that you've cleaned this area up very nicely, can that tank get relocated so it's further away from the road?

R. Persaud stated yes, I could.

D. Schlansker stated you're doing a very nice job cleaning it up. You corrected storm water issues you had on your own, with your own money.

R. Persaud stated I will move it in the future sometime. I would prefer to move it from there.

D. Schlansker stated usually your gas supplier will relocate that for you.

R. Persaud stated if that's the case I will move it.

D. Schlansker stated the other comment I have I want to bring attention to. The applicant does have a little bit of room to move the building back a little bit further but he's being conservative and he doesn't want to have to come back to us and if for some reason they're digging the foundation and the proximity of the pond. He probably has

another foot or so where he could go back but he doesn't want to put himself in a position where he needs 7 feet when he only asks for 5 or 6 feet. He's being conservative in asking for 7 feet. He did also show me he put in a new culvert pipe and corrected a major storm water problem that was on site in this area. It's walkable now.

D. Schlansker continued the third thing - he does have the telephone pole which has the power lines on it. It is really restricting where he can put the building. I was trying to see if he could move it closer to the house, but if he does that then he's going to lose functionality of this building. He doesn't have that on his application but the pole compounds things slightly as well.

D. Schlansker stated I'd like more clarification to D. Hennel's question about what you are going to do in the front of it. You will have two (2) doors facing the road. Can we assume when you come out of this structure, you're going to go over to your existing driveway and you're not coming out to the road with another driveway?

R. Persaud stated no. It's going to come over to the existing driveway.

D. Hennel stated if that's gravel in front of it out by the road, I don't want to see a front yard that's all gravel or paving. I'd like to see grass out there. You don't have to replant trees but I'd like to see grass.

R. Persaud stated most of the gravel you see, I had to put so I could drive and clear the lot. I'm going to scrape that back over. There will be grass.

D. Hennel stated the suggestion for the propane tank and it's going to be removed from the front yard. Give him latitude - does it go behind the barn, next to the barn but it's going to come out of the front yard, that front plane so it would be no closer than the front of your house to the road. To me, getting that out of there makes up a little that the garage is going to be seven (7) feet into the front.

C. Beers asked if the applicant would be agreeable to that.

R. Persaud stated yes. How far does the propane tank have to be from the house?

C. Beers stated 10 feet, correct?

D. Hennel stated yes, it can be close.

R. Persaud stated I can move it. It will be better to put it next to the garage or shed when it's done.

C. Beers stated this would be a condition. If we agree to let you do it, you're agreeing you're going to move the tank.

R. Persaud stated yes.

D. Hennel asked about a condition regarding the gravel in the front. Other than access to the garage, which is stone or pavement, it's not going to be gravel all the way out to the road. Or driveway all the way out to the road from the new building.

C. Pierson stated you can condition there's no driveway from the shed to the road.

D. Hennel stated no additional curb cut.

C. Pierson stated yes, you can say that.

R. Persaud stated that's fine with me.

B. Peterson asked if the applicant was referring to a garage and a shed as the same building.

R. Persaud stated yes. To be clear, garage.

D. Hennel stated the conditions would be no additional curb cut and the propane tank is to be relocated to not remain in the front yard.

C. Beers stated yes, behind the front plane of the home.

J. Pangburn stated what if there is some unforeseen condition that's the reason why the propane tank was placed there.

R. Persaud stated I have a leech field; I can't put anything over there. It will have to be closer to the garage.

J. Pangburn stated there may be a reason why the propane tank is placed where it is.

D. Hennel stated I don't want to leave an opening where the gas company states we don't want to move it and it stays there.

C. Pierson stated I would use the term impossibility. That it has to be absolutely impossible for it to be located.

C. Beers stated if it was an FPA violation or something like that.

C. Pierson stated I would say it has to be moved unless there is an environmental restriction. Is that what you're thinking?

J. Pangburn stated yes, a condition with the site or something in the fire code and that's the only logical place to put it. It's on top of the septic tank or its within 5 feet from the house.

R. Persaud asked does it have to be a certain distance away from the telephone pole? There is a pole right where you are suggesting.

J. Pangburn stated I don't know off the top of my head but that is another example.

D. Hennel stated if you put it behind the barn, it's pretty far from the pole.

D. Schlansker stated he can't, he's too close to the pond. The back of the garage is too close to the pond. He doesn't have enough room to put it behind it. You also can't put it somewhere they can't fill it. I don't want to put a condition on this vote for something the building department can't enforce because it's so open ended.

C. Pierson asked the propane tank?

D. Schlansker stated if it gets approved and we have a condition about this propane tank, it makes it difficult for the building department to enforce that condition if it's not written properly.

C. Pierson stated right. If he doesn't move it at all then he wouldn't get the permit.

R. Persaud stated I bought it with the propane tank there. If they don't agree to move it, my variance is for the garage and the garage being seven (7) feet closer to the road. I'm willing to move it but if the gas company doesn't want to move it or if I'm going to put it where that telephone pole can fall on it. They may have a reason why they placed it there.

J. Pangburn stated can you make the condition if it can't be physically moved for an unforeseen reason, he screens it with landscaping.

D. Hennel stated yes, that's fine. Don't look for a loophole, try to move it please.

R. Persaud stated I don't want it there also. I don't want it to be an issue if it can't be moved.

C. Pierson stated that's what they're going to cover in the condition. You have to move it unless it would cause - if it was right next to a telephone pole and the telephone pole could fall on it or it's going to put somewhere that would cause an issue. We're not going to make you move it if it would cause an environmental issue or safety concern. If there's no safety concern or environmental issue that prevents it from being moved, then you have to move it.

C. Beers stated I don't define safety concern as a regulatory issue.

C. Pierson stated if it's against the code or state environmental law then we're not going to make you break the law. Other than that, you're going to have to move it out of the front yard. If it's a safety issue, we wouldn't make you do it.

D. Hennel stated but he can go pretty much anywhere outside the front yard.

C. Pierson stated unless there is an issue underground that we don't know about.

C. Pierson asked do you want a time frame on it? When were you going to start building this?

R. Persaud stated the guy is waiting right now so he can start building. It's getting cold.

C. Pierson asked do we want to put a time frame on moving the propane tank, so he doesn't have his project held up?

D. Hennel stated May 1, 2024, in the event it can't be moved before winter.

C. Pierson stated that's reasonable. That way he's not held up by it but it still gets moved.

D. Schlansker asked are you comfortable holding a certificate of occupancy on the building or would you prefer a time frame?

J. Pangburn stated I would issue a violation then a court appearance if it wasn't corrected. It would take some time, but it would certainly cost them a lot more. If he didn't move it by May 1, 2024, I would revoke the permit and send to Court for working without a permit.

C. Beers stated that's an eight (8) month time frame. I was thinking three (3).

C. Pierson stated you could do a month and he could start working then in that month he has to work on making arrangements for it to be moved.

D. Hennel stated December 1, 2023.

C. Beers stated I would like to at least see an agreed upon plan with the gas company. I would be comfortable if he came back and said they can't do it until April, but they agreed they're going to move it.

D. Hennel asked December 31, 2023?

C. Beers stated to be moved or have an agreed upon plan with the gas company?

C. Pierson stated to be moved.

D. Hennel stated we will say it needs to be moved by year end.

C. Pierson stated but try to make arrangements as soon as possible.

R. Persaud stated I will look into it tomorrow.

D. Hennel asked if anyone else wishes to speak in favor of or against the application.

Chairman Hennel closed the public hearing.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 20' by 30' new garage located at 242 Wagner Road, Glenville, NY and as identified on tax map # 21.-1-14 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-9C accessory uses and structures location. No permitted accessory structure shall be located in any front yard because the proposal would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on September 25, 2023, and after having considered the benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community; in particular,

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Finding of fact: No. This is a rural residential/agricultural zoning district, with other properties having accessory structures in the front yard. The applicant will be improving the property and creating a positive change in the neighborhood by the addition of the garage and all the other work on cleaning this project area up and correcting the stormwater drainage system which has failed.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Finding of fact: No. The property has a pond, power pole/wires, swimming pool and an existing septic system which do not allow the garage to be built in other locations on the property.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: No. The applicant has requested seven (7) feet, which is not substantial. The applicant will also make an attempt to keep the garage back as far as possible and possibly reduce the actual requested distance.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No, actually with the correction of the stormwater system, he will be improving the environmental conditions.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. The request is self-created but should not impact the decision of this request.

- CONDITIONS:**
1. No future additional curb cuts after the construction of this building.
 2. The applicant is going to make all attempts to relocate the propane tank back from the road behind the front of the house, out of the front yard, unless impossible or due to any regulatory requirements. If that's not possible, the tank will be screened with landscaping to help hide the tank. This condition must be completed before December 31, 2023.

Now, therefore be it resolved that this application for an area variance be granted.

MOVED BY: Dick Schlansker

SECONDED BY: Charles Beers

AYES: 5 (Hennel, Schlansker, Peterson, Suydam, Beers)

NOES: 0

ABSENT: 0

MOTION GRANTED

- 4) Application of, Brian & Tanya Bellamy, 722 Sacandaga Rd, Glenville, NY 12302**, for the construction of a 40'x50' garage. This property is located in the Rural Residential/Agricultural Zoning District. It is identified on the map as parcel# 14.-3-44.21.

In accordance with the Codes of Glenville, the following variances are requested:

270-9D – Accessory uses and structures. Height. No accessory building or structure shall exceed 15 feet mean height. The applicant is proposing a 40'x50' garage with a mean height of 21.5 feet. Therefore, a variance of 6.5 feet is requested.

B. Peterson read the application and the review factors for the variance request into the record.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties because of the location. The

proposed location is 600 feet off the road surrounded by thick tree covering. It will not be seen by anyone but the homeowners.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: We cannot achieve goals via an alternative build due a large garage door necessary for personal RV and boat storage. Added storage space is also being added.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: The requested area variance is 21.5 feet as compared to the allowed 15 feet code. However, it will not have an adverse impact on the neighborhood or community due to the location.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: The area variance will not have an adverse effect on the physical or environmental conditions of the neighborhood or district. The homeowners will be the only persons able to see it and will be built to compliment the existing home.

5. Whether there has been any self-created difficulty.

Answer: The proposed height is taller than what the code allows. The code is only 15 feet, and the proposed height is 21.5 feet. The additional space is required for storage of a taller RV, an ATV, personal vehicles and other yard equipment stored at neighbors or offsite.

The application was signed by Brian and Tayna Bellamy on September 12, 2023. Notice of the application was mailed to 25 property owners within 500 feet. This is a not County referral.

Chairman Hennel asked if the applicant wanted to add anything to the application.

John Hitchcock, ABD engineers, on behalf of the applicant, stated this is surrounded by big pine trees. It won't be seen by any neighbors on Snake Hill Road. The closest neighbors on Sacandaga Road are 515 feet away. They're about 600 feet away from the road. No trees need to be cut down since this is an open area. The peak, the roof is a 9/12 pitch roof for the attic space storage. It will compliment the house.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

D. Hennel stated yes, it is way back from the road.

J. Hitchcock stated yes, it is tucked away.

D. Hennel asked is anyone else would like to speak in favor of or opposed to the motion.

Chairman Hennel closed the public hearing.

MOTION:

The applicant having applied for an area variance after having been denied a building permit related to the accessory structure with a mean height of 21.5 feet, Town Code Section 270-9D at 722 Sacandaga Road, Glenville, NY and as identified on tax map # 14.-3-44.21 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-9D Accessory uses and structures - shall not exceed 15 foot mean height as a rural residential agricultural zoning district because the proposed use of the property would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on September 25, 2023, and after having considered the benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community; in particular,

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Finding of fact: The proposed structure will have no negative impact or detriment to nearby properties in the neighborhood. The area of the proposed structure is roughly 600 feet off the road surrounded by trees and can only be seen by the homeowner. No other property has a direct line of sight to this proposed structure.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Finding of fact: The roughly 6.5 feet variance is the shortest reasonable height to meet the needs of the homeowner for the RV, boat and vehicle storage while maintaining a proper roof pitch for all environmental considerations.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: The requested variance is minimal when all factors are considered. The building will only be visible to the homeowners and will be constructed to compliment the existing home.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: The variance will have no substantial impact on the environmental conditions in the neighborhood or district. The variance also has no stated opposition from neighbors or the community.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. The situation is self-created as stated by the applicant in an effort to store their vehicles and recreational equipment properly.

Now, therefore be it resolved that this application for an area variance be granted.

MOVED BY: Charles Beers

SECONDED BY: Dick Schlansker

AYES: 5 (Hennel, Schlansker, Peterson, Suydam, Beers)

NOES: 0

ABSENT: 0

MOTION GRANTED

MOTION: To adjourn the September 25, 2023 meeting of the Town of Glenville Zoning Board of Appeals at 9:00 PM.

Moved by: David Hennel

Seconded by: Brian Peterson

AYES: 5 (Hennel, Schlansker, Peterson, Suydam, Beers)

NOES: 0

ABSENT: 0

MOTION APPROVED

Next agenda meeting: October 16, 2023

Next meeting: October 23, 2023

Submitted by,

Kristen Bode, Stenographer

Date

ZBA Chairman

Date

Town Clerk

Date

FINAL