

# PLANNING AND ZONING COMMISSION

Town of Glenville  
18 Glenridge Road  
Glenville, NY 12302  
January 9, 2017

Present: M. Carr, Chairman, J. Gibney, T. Bodden, K. Semon, M. Tanner, T. Yosenick

Also

Attending: K. Corcoran, Town Planner, M. Cuevas, Attorney, L. Walkuski, Stenographer

Absent: P. Ragucci

Meeting called to order at 7:04 PM

**Motion** to approve the Agenda

**Moved by:** K. Semon

**Seconded by:** T. Yosenick

**Ayes:** 6      **Noes:** 0      **Absent:** 1

Motion Approved

**Motion** to approve minutes from the December 12, 2016 Meeting

**Moved by:** K. Semon

**Seconded by:** T. Bodden

**Ayes:** 6      **Noes:** 0      **Absent:** 1

Motion Approved

## MOTION

To move agenda item #5 (Town of Glenville Zoning Text Amendment) to agenda item # 1 in order for the commission to properly act on the Guardian Preservation and the Schenectady Distilling Company applications.

### **Motion**

**Moved by:** T. Bodden

**Seconded by:** K. Semon

**Ayes:** 6 **Noes:** 0 **Absent:** 1

Motion Approved

## **Town of Glenville**

## **Zoning Text Amendment Recommendation to the Town Board**

The Town is presenting this zoning text amendment in reaction to the Schenectady Distilling Company application. Specifically, this proposal calls for the addition of micro-distilleries to the list of allowed uses by site plan review within the *Community Business*, *General Business*, *Highway Commercial*, *Research/Development Technology*, and *Rural Residential/Agricultural* zoning districts. Micro-distilleries were not contemplated by the Town in 2012 when microbreweries and micro-wineries were added to the list of allowed uses by site plan review. This proposal also includes the addition of a definition for “micro-distillery”.

M. Carr asked K. Corcoran if there were any other comments with regard to this item.

K. Corcoran said it is pretty straight forward, just adding micro-distillery as an allowed use in those zoning districts and to also include a definition.

## MOTION

The PZC recommends that the Town Board approve the zoning text amendment to include micro-distilleries in the Community Business, General Business, Highway Commercial, Research/Development/Technology zoning districts and to also include a properly prepared definition of micro-distillery.

### **Motion**

**Moved by:** M. Carr

**Seconded by:** T. Bodden

**Ayes:** 6 **Noes:** 0 **Absent:** 1

Motion Approved

K. Corcoran stated that the Rural Residential/Agricultural zoning district was not mentioned originally and should be included.

Motion to amend the PZC recommendation to the Town Board to also include the Rural Residential/ Agricultural zoning district.

**Motion**

**Moved by:** M. Carr

**Seconded by:** T. Bodden

**Ayes:** 6      **Noes:** 0      **Absent:** 1

Motion Approved

**Guardian Preservation, LLC**  
**3304 Amsterdam Road**

**Site Plan Review (Final)**  
**Public Hearing**

This proposal calls for the establishment of a property management company office and storage in a portion of the former Rector's Fire Department on Route 5. Guardian would occupy the western 2,725 sq. ft. of the 3,860 sq. ft. building, with the eastern 1,135 sq. ft. of the building – the eastern overhead bay – being earmarked for the spirits retail business. The property is zoned "Community Business".

Ken Gibbons represented Guardian Preservation, LLC.

M. Carr asked if there was any other information that Mr. Gibbons would like to present before the commission.

K. Gibbons responded they are still in the process of figuring out an alternative site for the septic system if needed. His engineer said at the present time Guardian employees use of the facilities will be minimal. There is an average of 15 gallons per employee per day equalling approximately 60 gallons a day. They cannot confirm or deny how well the system works, as it hasn't been used in a long time.

M. Carr said there shouldn't be an issue with the septic system use, but it still needs to be investigated. M. Carr next addressed the parking layout at the site. There seems to be an issue with ingress/egress from Route 5 and the front right parking spot.

K. Gibbons responded they have not changed a thing with regard to parking. What is on the site plan is physically there now. He mentioned an unused road that runs along the back of the building that can be used for parking.

M. Carr stated the issue is not how many parking spots are available, but rather the parking spot directly in front of the building to the right that could cause issues with traffic coming in from Route 5. The parking lines should be removed and the site plan should be updated. Also, the number of parking spaces for the site plan needs to be quantified.

J. Gibney asked if there were enough handicap parking spaces. The plan currently shows one space and another that is checked off. The checked off space is for unloading handicapped individuals and their equipment. It cannot be considered a handicapped parking spot.

K. Corcoran said the he wasn't sure of the required number of handicapped parking spaces, but the Building Inspector would address that concern.

K. Semon asked what was the issue with the septic.

M. Carr said the issue was whether or not the existing septic system can handle the usage and if it ties into the drywells. There also needs to be an investigation of the ground to make sure nothing potentially dangerous was introduced into the subsurface.

J. Gibney pointed out that one of the questions is how much water will be dropped into the septic system from the processing at Schenectady Distillery.

M. Carr opened up the floor for the public hearing. With no one wanting to speak, the public hearing was closed.

## MOTION

In the matter of the final site plan review application by Guardian Preservation, LLC for the establishment of a property management office and storage in a portion of the former Rector's Fire Department located at 3304 Amsterdam Road, the PZC hereby conditionally approves the application. The Commission's decision is based upon the following findings:

1. The proposed use does conform to other applicable provisions of the Zoning Ordinance, including, but not limited to, landscaping requirements, building design, off-street parking requirements, building setbacks, fence requirements, sign regulations, storm water management and erosion control requirements, etc.
2. The proposed use does exhibit adequate and logical vehicular access and circulation, including intersections, road widths, curbing, and traffic controls.
3. The proposed use does exhibit satisfactory pedestrian and bicycle access and circulation, including separation of pedestrian traffic from automobile traffic, the placement and usefulness of on-site sidewalks and walkways, the accommodation for pedestrians at adjacent street intersections, and overall pedestrian and bicyclist safety and convenience.
4. The proposed use does exhibit adequate and logical location, arrangement, and setting of off-street parking and loading areas.
5. The proposed use does exhibit adequate and logical placement, arrangement, size, and design of buildings, lighting, and signs.

6. The proposed use does provide for the adequate type and arrangement of trees, shrubs, and other landscaping elements, as they relate to visual and noise buffering of adjacent sites and the reduction of visual impacts from the street.
7. The proposed use does demonstrate adequate provisions for the collection and/or disposal of storm water, sanitary waste, and garbage.
8. The proposed use does allow for adequate on-site snow plowing and snow storage.
9. The proposed use does demonstrate adequacy and durability of structures, roadways, utilities, and landscaping in areas with moderate to high susceptibility to flooding, ponding, and/or erosion.
10. The proposed use does retain existing trees and vegetation for aesthetic reasons, and minimize soil erosion and siltation.
11. The proposed use does protect adjacent properties against noise, glare, light pollution, odors, litter, unsightliness, or other objectionable features.
12. The proposed use does provide suitable open space for buffering and/or recreation purposes.

Conditions of Approval:

1. The applicant needs to obtain final approval from the engineer on septic system adequacy.
2. Commitment from applicant to properly investigate the existence of the drywell and the related contents. If there is anything negative found, it needs to be addressed.
3. Regular and handicapped parking spaces need to be properly defined and quantified on the site plan. Also, per the Schenectady County Zoning Coordination Referral, the parking space in front that requires the user to back into the highway entrance is to be eliminated.
4. Any inside floor drains may need to be eliminated or connected to the on-site sewage disposal system. Investigation of the floor drains needs to be done.

**Motion**

**Moved by:** M. Carr

**Seconded by:** K. Semon

**Ayes:** 6 **Noes:** 0 **Absent:** 1

**Motion Approved**

**The Schenectady Distilling Company, Inc.  
3304 Amsterdam Road**

**Site Plan Review (Final)  
Public Hearing**

This application would result in the establishment of a spirits retail operation in a portion of the former Rector's Fire Department on Route 5. This business would occupy the easternmost 1,135 sq. ft. of the building, which was the easternmost service bay of the fire station. The property is zoned "Community Business". The production component of the distillery will be subject to site plan review at a later date, once the Town has amended its zoning ordinance to allow micro-distilleries in the Community Business district.

M. Carr asked who is representing Schenectady Distilling.

K. Gibbons represented Schenectady Distilling.

K. Gibbons requested his Schenectady Distilling application be tabled until the Town has amended its zoning ordinance. The applicant believes that he will be able to move forward on his licensing and a future appearance in a couple of months should not be a setback to his plans.

M. Carr asked M. Cuevas if there were any issues with the PZC granting a conditional approval before the Town amends its zoning ordinance.

M. Cuevas stated that it would be prudent to wait until the Town Board makes its decision on the zoning before granting a conditional approval since there is no way in telling what the Town Board will do.

Discussion took place as to when the next time the applicant would appear before the PZC. Most likely the applicant would appear again at the March 2017 meeting.

**Motion to table the application as requested by the applicant**

**Moved by:** K. Semon

**Seconded by:** T. Bodden

**Ayes:** 6 **Noes:** 0 **Absent:** 1

**Motion Approved**

**Blackbird 1, LLC  
211 Sacandaga Road**

**Zoning Map Amendment  
Recommendation to the  
Town Board**

The applicant is proposing to rezone a 6.6-acre parcel from "General Business" to "Planned Development – Mixed Use" to allow the establishment of a 64-unit apartment project, consisting of eight buildings of eight units each, and a 2,400 sq. ft. restaurant/retail building. The restaurant/retail building also includes two apartments on the second floor. The property is located on the southwest corner of Sacandaga Road and Burch Parkway, and it includes the former Wayside Hardware business.

M. Carr indicated that the applicant will have the opportunity to discuss this application however, the application will be tabled per the applicant's request until a revised site plan is provided. This is a PDD and a specific site plan is required.

Luigi Palleschi, ABD Engineering, spoke on behalf of the applicant.

J. Gibney asked if the hardware store was still open.

Tony Dorazio, former owner of Wayside Hardware, stated the store is closed, but the land is currently being rented.

L. Palleschi gave an overview of the current site plan. There is a retail/commercial aspect in the front of the parcel facing Sacandaga Road, an industrial park to the west, a multi-family project located to the north and the Scotia-Glenville high school located to the south. He also spoke of the retail/commercial businesses nearby on Sacandaga Road and the two single family home parcels that are adjacent to this plan. Mr. Palleschi stated they would like to have the 6.6-acre parcel zoned "General Business" changed to "Planned Development – Mixed Use". This project was presented to the Town Board last month and the Town Board is in favor of this mixed use development. The Town Board indicated they wanted to see the retail/commercial component located near Sacandaga Road with the residential part located behind the commercial piece. The apartments will comprise of 1, 2, and 3 bedroom units within the 8 apartment buildings totaling 64 apartments in all. Each apartment comes with a parking space. There are also 36 detached garages in the plan that will be buffering the industrial park on the western side. A common green space area is also planned. Two proposed curb cuts are located off Burch Parkway. Sidewalks are planned to connect the proposed retail/commercial and residential areas. Public water and sewer are available. There has been a preliminary design for storm water management and it will meet DEC standards. The applicant is pursuing to purchase the two single family home parcels and actively marketing for the retail portion of this project.

K. Semon asked if there is resistance to offers.

Paul Nichols, Blackbird 1 LLC, said there is no resistance to any retail offers.

L. Palleschi pointed out that this area is difficult for retail without the population to support it. He indicated the residential part of this project would also benefit the existing retail/commercial businesses located nearby.

T. Bodden asked for the approximate size of the proposed apartments.

L. Palleschi stated the apartments range in size from 800 sq. ft. to 1, 200 sq. ft.

T. Bodden asked what the total square footage of the apartments is and does that include the garages.

L. Palleschi said the square footage of the apartments is approximately 62,000 sq. ft. and it does not include the garages.

A discussion took place with regard to the amount of residential space (65,000 sq. ft.) vs retail space (2,400 sq. ft.) and does that fall within the intent of a mixed use development. Although there is no guideline as to what the percentages should be for mixed use (35% should be set aside for green space) this proposal does not seem to support what would be considered a normal PPD application in the eyes of the PZC. As it currently stands, this application looks more like a multi-family residential project. It was also mentioned that if the two-single family home parcels that are currently zoned “General Business” could be acquired by the applicant, it would give more weight to the effort of developing retail/commercial along Sacandaga Road and this application would have a more mixed use feel. However, the PZC must make its decision based on the application as it is currently presented, not what may or may not happen in the future.

Another discussion took place with regard to the traffic patterns. A traffic analysis was provided stating there is no issue with traffic.

L. Palleschi asked if the square footage of the retail space were to be increased, would there be an objection to the number of apartments located over the retail space to also be increased. The reason being in order to get financing a certain percentage of the building has to be occupied.

T. Bodden asked where they are with negotiations for the two adjacent lots.

Gordon Furlani, CBRE Realtor, represents the Dorazio family and the owners of the parcels on either side. He has been marketing the property for 3 years, and only received one offer from the school system which fell through. Two other developers have offered only residential ideas. This current proposal provides for both retail and residential.

P. Nichols said this proposal has taken into consideration what the Town wants to see in relation to commercial development along Sacandaga Road and what the area can use. It is their intent to build the retail on spec.

P. Nichols indicated they are close to closing on the two single family parcels. There are contracts being looked at.

J. Gibney asked K. Corcoran if Glenville currently has any mixed use PDDs.

K. Corcoran responded yes there is one located behind the municipal center (Patriot Square) however, although it was approved the commercial piece never materialized.

K. Semon asked if the two properties are obtained will they be incorporated into the PDD.

L. Palleschi indicated that they would rather have them be separate from the PPD.

K. Semon asked what is going to be considered as green space.

L. Palleschi said the entire location provides 65% green space, including the perimeter at approximately 15,000 sq. ft.



Discussion took place with regard to what the Town like would to see along that area. There is nothing specific mentioned in the Comprehensive Plan with regard to that area. It is a transitional area between residential/commercial to industrial. More integration between office space, commercial and residential would be welcomed.

At this point M. Carr read the notes from the January 3, 2017 PZC agenda meeting. *“The PZC will recommend not approving the change in zoning as the Town Board must strictly enforce the moratorium. We also feel this proposed plan is not an appropriate “Mixed Use” with virtually the entire proposal being high density residential housing. It must be noted that the PDD process must accompany a specific proposal. In our opinion, this application is contrary to the intent of a PDD.”*

Another discussion took place concerning the ability to obtain the two adjacent parcels, including them in the PDD, and how those parcels would be used. It was stated the two parcels would probably be an extension of the current retail plan. If that were the case, this project would fall more in line with the intent of a PDD.

M. Carr suggested that the application can either be tabled or the PZC can make a recommendation based on the current plan excluding the two adjacent parcels.

K. Semon said he was concerned with the central green space area since it will be under high density use. He suggested looking at a sliver of land on the east side as the perimeter doesn't allow for much room.

Discussion ensued on whether or not the PDD should be split into two parcels and whether to change the zoning accordingly. Further discussion surrounded whether or not the density is too high and lastly, could the PZC conditionally approve this without considering the future status of the two adjacent parcels.

**Motion to table this application.**

**Moved by:** K. Semon

**Seconded by:** T. Bodden

**Ayes:** 6 **Noes:** 0 **Absent:** 1

**Motion Approved**

**Christopher Hess  
367 Lovers Lane**

**Request for Variance from  
Moratorium –  
Recommendation to the  
Town Board**

The applicant is seeking a variance from Glenville Local Law #14 of 2016, which is a moratorium on permits for projects within the Rural Residential and Agricultural Zoning District that require a conditional use permit and site plan review, including recreation facilities. Mr. Hess has a wiffleball field on his property and he hosts games and a wiffleball league for friends during the spring and summer months. The Town previously determined that Mr. Hess's use is

subject to this moratorium. The moratorium local law provides a variance process for landowners who believe they have suffered extraordinary hardship as a result of the moratorium. Mr. Hess, on recommendation from the Town, is seeking a variance for his wiffleball field and league.

M. Carr asked Mr. Hess to explain to the PZC what he does there now and what his future intentions are as the PZC has little information regarding his operation.

C. Hess said that there has been no wiffleball activity since he received the letter from the Town. He stated he has a chain link fence, a portable 3' x 2' scoreboard with a remote, a radar behind home plate, two flood lights attached to his house and in right center are two more flood lights, attached to a wood shed, that are directed toward the field.

K. Semon asked how many vehicles show up on a game day.

C. Hess stated approximately 6 – 8 cars. The driveway is shared by three homes and there is an easement for use.

K. Semon asked if the flood lighting interferes with the homes.

C. Hess said there is no interference as the homes are not close to each other. He stated he was going to make changes in light of everything that happened last year to only play 4 days per month.

M. Carr asked Mr. Hess to explain what happened last year.

C. Hess responded his neighbor complained to the Town and the Town ceased all operations of him playing wiffleball in his backyard.

K. Semon asked what was the basis of the complaint.

C. Hess responded the complaint was due to noise and traffic.

K. Semon inquired if his neighbor was bothered by 6-8 cars.

C. Hess responded yes.

T. Yosenick asked which neighbor complained.

C. Hess said it was the northern neighbor, 369 Lovers Lane, the one who is the furthest away. The neighbor located to the southeast, 365 Lovers Lane, would come watch the games.

M. Carr inquired as to how long Mr. Hess has been living there.

C. Hess said he has been living there a little over a year. He indicated that they would play maybe three days a week, two of them during the week and one day on the weekend. The games

would end by 8:30 p.m. One game did go past 9:00 p.m. If he was allowed to begin playing wiffleball again, he is willing to meet with his neighbors and suggest playing only on alternating weekends to help reduce the traffic. He thought possibly of playing on Saturdays, but there would be six to eight games running from 12 noon to 9:00 p.m.

M. Carr asked Mr. Hess if he had considered playing elsewhere at one of the Town's parks.

C. Hess said he wound up playing at Rotterdam Junction, but it was an inconvenience. In order to play at Indian Meadows or Maalwyck Parks there is a good amount of set up time needed. Additionally, there are different requirements for the base lines and he didn't want to have to repaint/rechalk lines at the parks.

T. Yosenick asked if this is part of a national league with regulations and rules, and do you send teams on to regionals/nationals?

C. Hess responded that yes it is part of a league, but he made up his own rules. It's more of an association of leagues from all over the country and they send teams to play nationals and regionals which he has done the past two years. When they go to nationals, they play by those rules, but his rules are very similar.

T. Yosenick pointed out the large driveway and asked if the cars are parking on the driveway or Mr. Hess's property.

C. Hess said no one parks on the driveway. They park on his property.

T. Bodden indicated that the PZC has no paperwork, other than the letter Mr. Hess wrote, with regard to his wiffleball field or his property. He understands what Mr. Hess is saying, but there is nothing physical to look at and that creates a problem for the PZC to make any recommendations to the Town Board.

T. Yosenick said without some type of plan it is difficult to get a clear understanding of where everything is located and to see if there is validation to the noise complaint. Where are the property lines located? How close is the field to the property line? Without some type of visual it makes it difficult for the board to make an informed decision.

M. Carr asked M. Cuevas about the moratorium that is currently in place, as a result of the zipline case, and wanted to know if there is going to be some type of legislation or resolution that will address these type of situations going forward.

M. Cuevas responded that yes there is current discussion going on and he does not know if it has yet been resolved. As a result of the zipline application, the Town Board realized there is not an adequate type of definition for outdoor recreation. The difficulty is in determining where is the line drawn for someone just using their property for outdoor recreation or is it something bigger.

T. Bodden said he thinks this is being taken too casually.

K. Semon stated as a board, which uses data to make their decisions, there isn't anything that they can go on. He then asked Mr. Hess if he has approached the town's Parks and Recreation Department to see if there is a field available for use. There is some undeveloped areas in Indian Meadows that might work out.

C. Hess stated he has not contacted the Parks and Recreation Department. His concern would be the cost of insurance to play on the field.

K. Semon responded just as the Town developed a dog park due to requests from residents, there might be an opportunity for the Town to create a wiffleball field because there are requests for it.

Discussion ensued about the PZC making a recommendation without anything tangible to review and additionally, as a result of the zipline case, there is some hesitancy in making a recommendation. There is a fine line in determining whether this is just a group of people getting together to play or is this really considered something more organized.

T. Yosenick read the following *"a moratorium on permits for projects within the Rural Residential and Agricultural Zoning District that require a conditional use permit and site plan review, including recreational facilities."* If Mr. Hess does get the waiver won't he have to come back before the commission for site plan review and conditional use permit?

K. Semon asked Mr. Hess if he was aware that he would need a site plan done by a professional engineer.

C. Hess said he was aware of needing site plan review and asked if someone could explain what the waiver actually does for him.

M. Cuevas stated that he applied for relief from the moratorium. The appeals provision in the moratorium local law gives the Town the power to vary or modify the application of that local law and its entirely within the discretion of the Town Board after they hold a public hearing. The issue is whether the application of the local law would impose an extraordinary hardship on the landowner and whether the variance from the moratorium will not adversely affect the health, safety, and general welfare of the citizens of the Town. Therefore, you make your request, you pay your processing fee, and after the Town Board gets a recommendation, they hold a public hearing and they determine whether or not they will grant the variance.

K. Semon asked if he had been in operation beforehand.

C. Hess said he had been in operation at his former home on Cherry Lane for 12 years. He had only been in operation for about 2 weeks at his current location when his neighbor complained.

K. Semon asked if Mr. Hess needed prior approval at his former location.

K. Corcoran responded when the neighbor complained the Town Building department investigated and they determined this was an outdoor recreational use and it needed site plan review and conditional use permit. In the meantime the moratorium was passed.

Discussion ensued with regard to if the waiver is given to the applicant he will have to re-appear before the commission with a site plan review. Even with the site plan review does the commission have the necessary guidelines/information/regulations in order to approve the site plan? It is uncharted territory. The PZC is being asked to make a decision on something without having enough information. The length of the moratorium is 6 months, but it has been extended at least once already. The extension was granted while waiting for the Comprehensive Plan to be completed. It is not yet known what recommendations the Comprehensive Plan will be providing on zoning for outdoor recreational use.

Another discussion addressed the issue of a group of people getting together to play ball, but this has more of a feel of an organized sport. Also discussed is what the PZC is addressing; is it a concept or the physicality of the sport i.e. fences, scoreboards, etc? It was also discussed as to what is the actual hardship for the landowner.

C. Hess stated that his hardship is not being able to play wiffleball, his passion, on his property.

J. Gibney said that he is able to play at other locations and has done so.

K. Semon reiterated to Mr. Hess about approaching the Parks and Recreation Department and the possibility of developing a wiffleball field as there is still real estate to be developed in the Town's parks.

#### Motion

The PZC recommends that the Town Board deny the waiver based on the following.

1. There is limited knowledge/information with regard to the lighting, scoreboard, base lines, and the parcel itself to make an informed decision.
2. The level of development indicates it is more involved than just a group of individuals getting together to play wiffleball (i.e. scoreboard, lighting, website, etc.)
3. There is little evidence of a hardship by the applicant as other venues are available, suitable for playing wiffleball.
4. At present, there is not a viable outdoor recreation definition.
5. The moratorium is in place for a reason.

#### **MOTION**

**Moved by:** M. Carr

**Seconded by:** K. Semon

**Ayes:** 5 **Noes:** 0 **Abstain:** 1 **Absent:** 1

**Motion Approved**

With no further business the meeting was adjourned at 8:55PM

Submitted by:

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Lynn Walkuski, Stenographer

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Linda C. Neals, Town Clerk