

PLANNING AND ZONING COMMISSION

Town of Glenville

18 Glenridge Road

Glenville, NY 12302

June 11, 2018

Present: M. Carr, Chairman, J. Gibney, J. Lippmann, P. Ragucci, K. Semon
M. Tanner

Also

Attending: A. Briscoe, Code Enforcement Officer, K. Corcoran, Town Planner,
L. Walkuski, Stenographer

Absent: N. Brower

Meeting called to order at 7:03 PM

Motion to approve the Agenda

Moved by: P. Ragucci

Seconded by: M. Tanner

Ayes: 5 **Noes:** 0 **Absent:** 2

Motion Approved

Motion to approve minutes from the May 14, 2018 meeting

Moved by: K. Semon

Seconded by: M. Tanner

Ayes: 5 **Noes:** 0 **Absent:** 2

Motion Approved

**Dean Durst on behalf of Cindy McKenna
730 Saratoga Road**

**Site Plan Review (Preliminary
and Final Combined)
Public Hearing**

This proposal calls for an already existing seasonal and portable outdoor retail operation for the sale of flowers, vegetables, bedding plants, mums, pumpkins, etc. The project consists of seven seasonal greenhouses on the north side of the Country Acres/Garden Time property. The property is zoned Community Business.

Dean Durst was present for Cindy McKenna.

D. Durst mentioned that the permit for the movable sign has been found and was presented to the Building Department.

J. Gibney said there's a concern the site plan is not in compliance at this time based upon a recent inspection by the town code enforcement officer. Until the site plan is in compliance, the PZC will not approve the final site plan.

P. Ragucci stated one issue with the site plan is that it does not show the current number of greenhouses being used by the business. Another issue absent from the site plan is the utilization of space between the storage units and the property line for merchandise.

D. Durst said he spoke with M. Burns, Planning Department, asking for an interpretation on the pallet benches for the seasonal flowers. Originally, these pallet benches were on the site plan however, after M. Burns spoke with T. Petricca, Code Enforcement Officer, it was indicated the benches were not regulated and, therefore, the benches were removed from the site plan. T. Petricca inspected the site and she determined the pallet benches were not in a proper location. D. Durst also mentioned that there is another horticultural business in Glenville which uses the same pallet benches that are within 4 feet of the road, whereas, Garden Time's pallet benches are located off the road and located between the green houses and the storage unit.

(NOTE: Subsequent to the PZC's June 11th meeting, Ms. Petricca indicated that she never stated that the benches were not regulated).

D. Durst presented P. Ragucci with an email from T. Petricca. J. Gibney read the email as follows:

I took a ride up to the McKenna Greenhouse today. Unfortunately, what I observed was not what I hoped for. Not only are they in violation of their original site plan, they are already in violation of the latest site plan currently before the PZC.

Attached is the plan being considered by the PZC at this time as submitted by the applicant. I've marked up the plan as to what is actually on the site. They have added a 4th greenhouse and they have flower stands/tables and display in the entire space between the greenhouses and the property line. In fact, they have flowers hanging from an iron pipe/fence that runs down the property line. This display area and structure is not shown on the plan you are asking to be approved.

Extensions to the notice of violation were given last October so that the applicant could sell out her pumpkins and apply for the site plan. We did not receive the site plan application until this spring, however she again set up in violation of her approved plan.

A notice of violation has not yet been issued, however should compliance with the approved (or soon to be approved) plan not occur I will have no choice but to issue one. I cannot grant another extension.

Also, the Town Zoning Ordinance does not have any exemptions for temporary or moveable structures or displays. Therefore, all structures and outdoor display areas must comply with setbacks and other code requirements.

J. Lippman asked what exactly is a pallet bench?

D. Durst responded there are two concrete blocks with a pallet sitting on top of the blocks.

K. Semon asked if the pallet display is along the setback.

D. Durst said yes, it is along the setback, but it's not a structure.

P. Ragucci asked if there is a fourth greenhouse currently on the property.

D. Durst replied the green house area is delineated within the setback area, and there are greenhouses along the building on the other side. They greenhouses have not changed. The length of the greenhouses along the parking lot can vary dependent upon where aisles will be created and the amount of product in each greenhouse.

J. Gibney asked if there are flowers on the fence.

D. Durst said it is not a fence, but pipes driven into the ground with a pipe running between the them. There are flower baskets hanging from the pipe. It is located within the setback.

J. Gibney asked K. Corcoran if that would be considered a structure.

K. Corcoran replied it seems that is the Code Enforcement Officer's interpretation and it cannot be within the setback area.

J. Lippmann asked if the problem was that the display was for business purposes and not just a display as a homeowner would have.

K. Semon asked if there was any difference in the display outside or inside the greenhouses.

D. Durst said the display is the same. The only difference is that some of the display area is covered with the greenhouses. Even though the greenhouse is not considered a structure, they had to comply with the setback requirements.

Another discussion took place regarding the set-up of the greenhouses, set-up of the pallet benches and iron pipe display.

J. Gibney asked K. Corcoran if this is a gray area.

K. Corcoran responded that it is the Code Enforcement Officer's call.

M. Carr suggested that T. Petricca meet with Dean Durst and/or Cindy McKenna and discuss what needs to be done to correct this situation. At this time, the building department does not consider your site plan as being in compliance. The issue with the building department needs to be resolved before the PZC can sign off on any site plans.

A. Briscoe said the best approach right now is to meet with T. Petricca and figure out what her interpretation is.

A discussion took place as to what the bottom line interpretation is so the PZC can act appropriately. Additionally, the previous site plan along with the current site plan does not accurately show the layout of the business.

At this time the public hearing was opened and with no comments from the floor Chairman Carr closed the hearing.

It was decided that the final decision for this application will be handled at the July 2018 meeting.

**Capitaland Realty, LLC
37 and 47 Saratoga Road**

**Revision to Previously
Approved Site Plan and
Conditional Use Permit
Public Hearing**

In April, Capitaland received site plan approval for a modification to their site plan for 37 and 47 Saratoga Road, at which time the applicant requested that the individual GMC and Subaru properties not be combined. The site plan approval in April included an adjustment to the property line between the two lots to negate the need for any area variances. Capitaland is now seeking to adjust the location of the property line again, necessitating an amendment to the site plan.

Tom Andress, ABD Engineering, was present. The reason he is back before the PZC is due to the lot line being adjusted to accommodate the green space requirement. The new line adjustment creates a lot with 39% green space while the required amount is 35%. The other area is 65% green space.

M. Carr asked if the height of the berm will be 4 feet high after landscaping.

T. Andress stated there is some grading at the berm, but the center of the berm will be 4 feet. However, T. Andress asked if there will be a problem with changing out the plantings along the power line which runs through the islands. Originally, they suggested planting trees on each island, but cannot plant over

the power lines. It is now suggested that there will be two shrubs planted, one on each side of the power line, per island.

M. Carr asked A. Briscoe if all the violations had been corrected.

A. Briscoe replied the building department has not been called to do an inspection to his knowledge therefore, he doesn't know if the corrections have been made.

T. Address stated the PZC set a date of June 30, 2018 as a deadline to have the violations corrected. He said everything has been done except for the completion of the berm which is currently being worked on.

K. Semon asked if the easement agreement has been prepared.

T. Address replied it has been prepared and sent to M. Cuevas, Town Attorney, approximately three weeks ago.

M. Carr asked about the escrow account to cover the corrective actions of the notice of violations.

T. Address said the escrow account would have been put into place however, since the property line has been changed, and they are not appearing before the Zoning Board of Appeals, it is not needed now.

J. Gibney inquired as to what happens if the June 30th deadline is not met.

T. Address stated that they won't be able to store the cars in that area.

K. Corcoran said the applicant is already in the court system so the applicant has to meet the June 30th date to satisfy the notices of violations.

A discussion took place regarding the easement.

J. Lippmann stated the lot line adjustment does not create a logical, orderly subdivision of land.

A discussion took place with the reasoning behind the lot line adjustment and the jog in the lot line, special use permits, and variances.

J. Lippmann said she doesn't have an issue with the reasoning behind this adjustment however, there is concern of setting a precedent and making sure it is clearly defined as to why this unreasonable and disorderly subdivision of land will be allowed by the PZC because it cannot be developed at any point in the future.

At this time the floor was opened for the public hearing. With no comments from the floor, the public hearing was closed.

MOTION

In the matter of the request to revise the previously approved site plan and conditional use permit by Capitaland Realty, LLC located at 37-47 Saratoga Road, the PZC approves the request, however, the Commission conditions this revision to include the following:

- The review and approval of the easement language by the town attorney.
- All violations need to be corrected, including the raising of the berm and landscaping by June 30, 2018.

NOTE:

It is noted the applicant is currently in the legal system so there is legal recourse by the Town of Glenville if these items are not addressed.

NOTE:

The configuration of the lot line requested by the applicant, while not meeting the intent of subdivision within the Town of Glenville, results in abnormal shapes to the rear of the property and will not be able to be developed because they are landlocked. The intent is that the front of the property is appropriately buffered.

Motion

Moved by: M. Carr

Seconded by: K. Semon

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

Motion Approved

The PZC saw no issues with substituting two shrubs instead of planting trees in the islands due to the power line.

Town of Glenville

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

The Town is proposing to add food and/or beverage processing facility not to exceed 10,000 sq. ft. to the list of uses permitted by Site Plan Review within the “General Business” zoning district.

M. Carr said the Commission has no issues with this recommendation.

MOTION

In the matter of the zoning text amendment recommendation to the Glenville Town Board, the Planning and Zoning Commission hereby recommends that the Town Board approve this zoning text amendment. However, the Town Board should be aware that all “General Business” – zoned areas in the Town could potentially be affected by this amendment. The PZC will still have a level of oversight as site plan review will still be required.

Motion

Moved by: M. Carr
Seconded: P. Ragucci
Ayes: 6 **Noes:** 0 **Absent:** 1

Motion Approved

With no further business the meeting was adjourned at 7:48 P.M.

Lynn Walkuski
Stenographer

Linda Neals
Town Clerk