

PLANNING AND ZONING COMMISSION

Town of Glenville

18 Glenridge Road

Glenville, NY 12302

December 14, 2020

Present: M. Carr, Chairman, J. Gibney, N. Brower Dobiesz, K. Semon, M. Tanner

Also

Attending: A. Briscoe - Code Enforcement Officer, M. Burns - Planner I,
L. Walkuski - Stenographer

Attending

via webinar: J. Lippmann, M. Cherubino – Dir. of Community Development,
C. Heinel – Town Attorney

Absent: P. Ragucci

Meeting called to order at 7:07 P.M.

Motion to approve the Agenda

Moved by: K. Semon

Seconded by: N. Brower Dobiesz

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

Motion Approved

Motion to approve minutes from the November 9, 2020 meeting

Moved by: K. Semon

Seconded by: J. Gibney

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

Motion Approved

**MAG Land Development
231 & 233 Saratoga Road**

**Recommendation to Town Board
Zoning Change &
SEQR Determination**

The applicant is proposing a zoning change for 231 Saratoga Road to “General Business” to accommodate their proposed plan for the construction of a food service restaurant which is not an allowed use in the current zoning “Professional/Residential”. Additionally, the applicant wants to include a zoning change to 233 Saratoga Road from “Community Business” to “General Business” to continue the zoning abutting to the north of 233 Saratoga Road and prevent spot zoning.

Jamie Easton, MJ Engineers, was present via webinar.

J. Easton stated they are looking for the PZC to recommend to the Town Board the rezoning of 233 and 231 Saratoga Road. 233 Saratoga was previously approved by the PZC for the Wellnow Urgent Care building and is zoned “Community Business”. 231 Saratoga is currently zoned “Professional/Residential”. MAG Land Development would like to see both parcels zoned “General Business.” Surrounding parcels house Target to the east, McDonalds to the north, “Professional/Residential” to the south and “Suburban Residential” to the west. They feel the extension of the “General Business” district, to include these two parcels, makes sense as it will allow the proposed restaurant currently not allowed in the PR district, and will it complement the existing business uses within this corridor. The applicant is mindful that this parcel also falls within the Town Center Overlay District therefore, they are aware of the intensity restrictions of the Town Center Overlay District.

M. Carr inquired about an easement for the southern property since there is limited access to that parcel through the existing traffic signal.

J. Easton replied they planned on doing an easement.

M. Carr also stated that he will include a comment to the Town Board to consider the property to the south for whenever that parcel is no longer being farmed, although that has no bearing on this application.

K. Semon stated that when this application comes back for site plan approval, due to the increase in intensity use, the commission will need to take into consideration shielding properties to the west and south.

MOTION

In the matter of the zoning map amendment application by MAG Land Development, to be located at 231 & 233 Saratoga Road, the Planning and Zoning Commission recommends that the Town Board move forward with the zoning change. The zoning change is somewhat limited because it is located within the Town Center Overlay District and as such there are restrictions for planned uses. The applicant has stated there will be easement language on the site plan to allow free and unrestricted access for the southern parcel to get in/out of the traffic-controlled signal located on the northern parcel. Additionally, the Town Board should consider the next property to the south, if and when, that property

is no longer used for agricultural uses. The PZC also recommends that the Town Board issue a SEQR negative declaration with the appropriate institutional controls and the ability of the PZC to have site plan review.

Motion

Moved by: M. Carr

Seconded by: K. Semon

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

Motion Approved

John Rinebolt
404 Ballston Ave

Recommendation to ZBA
re-subdivision/lot line adjustment
area variances

The applicant is proposing to re-draw property lines for 404 Ballston Ave (SBL #30.10-2-8) and the property to the north (SBL # 30.10-2-9). 404 Ballston Ave currently has two dissimilar buildings on it, a single-family residence and a commercial building. Re-drawing the lines is to establish 404 Ballston as a residential property and the northern parcel as a commercial property. This request will result in obtaining four variances; three for the residential lot – frontage, lot size and setback and one variance for the commercial lot – frontage. These parcels are both in the “Professional/Residential” district.

John Rinebolt was present via webinar.

M. Carr inquired if the applicant reviewed the commission’s comments from the agenda meeting.

J. Rinebolt asked if the commission received his addendum. The map is a former survey/construction document received from Morton Building when the rear building was replaced. It was provided so the commission could see it was prepared by a licensed engineer and their comments are located in the upper right corner indicating that the septic systems were submitted and approved by the town. The applicant contacted the town water department and met with Garth Riccio, who went to the property and charted the underground water lines that he could find. Those lines are shown in red on the map with notes. The other map, with yellow highlighting, shows where the septic systems are existing on the property. The rear building has a 1,000-gallon septic tank that was installed when the building was replaced (in 1992) with a dry tank. The septic tank for the house, noted on a Clough Harbor survey, shows the septic tank’s approximate location. The applicant is using information provided by his septic company, A-1 Septic, that the dry well is located directly behind the indicated septic tank. The applicant went to the property and stated the dimensions for the house’s septic tank were taken by the applicant himself. The septic tank was recently serviced.

K. Semon asked if the applicant has a measurement from the proposed dry well to the proposed property line. He estimates it’s about 12 feet.

J. Rinebolt replied that he does not have a measurement. He said he cannot confirm a precise location for the dry well. He asked his septic company and the response was unless it’s dug up, they have no way of knowing precisely where it’s located.

K. Semon inquired if it's a dry well or part of a leach field.

J. Rinebolt said he does not know the answer.

M. Carr discussed a couple of items:

- The septic tank and leach fields/dry well needs to be incorporated into the site plan
- It looks like there will need to be an easement on the site plan for the water line as it looks like it is crossing the property lines
- The commercial business sign is located on the residential property

J. Rinebolt stated currently there is an existing curb box with a water line to the house, but it is not active, and there is no water meter at the house. However, there is a water line from the curb box that goes back to the rear building and G. Riccio was confident that the water line goes down the length of the driveway and takes a southwesterly turn to the curb box. The applicant would abandon that leg, intersect it at the driveway where it takes that bend, and go in the opposite direction to the undeveloped property. A curb box would be installed, they would tunnel under Route 50, and connect with a Glenville main. The town has closed off taps for the year, so this work would be done in the future.

J. Rinebolt replied that they have notified their tenant that the sign needs to be relocated. J. Rinebolt paced off the sign and said it should be moved approximately 50 feet north near the location of the proposed curb box. He would be disinclined to do the work now, as it would be in the way of the new curb box being installed.

M. Carr asked A. Briscoe will the movement of the sign need a permit.

A. Briscoe said a sign permit will need to be obtained so it is identified for that particular business on that parcel. This will also ensure the sign is not placed in the right-of-way.

J. Rinebolt said that he would discuss obtaining a sign permit with his tenant.

M. Carr stated the applicant has reference three different surveys and asked what will be submitted for the final site plan. The commission appreciates all the work the applicant has done, but when it comes time for the town to sign-off on the site plans, it needs to be all on one plan signed and stamped by a licensed professional.

J. Rinebolt said once he gets approval, he will turn this over to his surveyor and have all notes and information placed on the survey that was provided last week.

K. Semon stated he realizes due to current weather conditions that the sign and water relocations will not be taking place. He asked if we are holding off on subdivision approval until the water is done or are we looking to condition the approval? Once the subdivision is done, it's filed with the county. Are we looking to obtain the easement across that section of property for the water and worry about changing the water later?

A discussion took place about whether or not conditions can be put on a lot line adjustment. How does the town enforce this? What is the mechanism to guarantee the water line will be moved?

M. Carr restated that once the lot line is moved, the current water line would require an easement because it would be supplying water to another property. However, even though the applicant is proposing to move the water line, by taking it off the residential property, what is the enforcement mechanism to make sure the applicant does what he said he will do. Do we approve it without the easement now?

C. Heinel, Town Attorney, said until such time as the system is changed, the easement needs to be shown on the final site plans. The easement can always be extinguished at a later date if the water system is changed and the easement is no longer necessary, but without that change the easement needs to be shown on the site plans.

A. Briscoe said that makes sense. If the current water line breaks, without an easement, the new owner could deny access to the water line without an easement.

MOTION

In the matter of the re-subdivision/lot line adjustment with area variances by John Rinebolt for the property located at 404 Ballston Avenue, the Planning and Zoning Commission recommends the Zoning Board of Appeals approve this application with the following recommendations:

- All the drawings/alter site plans, three were mentioned, need to be incorporated into one final site plan with all information and changes listed i.e., septic systems, dry wells, water lines, etc. signed off by a NYS licensed professional, as modification to existing plans is against NYS Educational Law.
- The existing water line, on the residential property, needs to have an easement until such time when a new water line is installed. This will allow the rear commercial property to have unfettered water access. This easement needs to be included on the site plans as well.
- The sign, to be relocated to the new parcel, will need a sign permit. The tenant has been notified that they will need to move the sign.

Motion

Moved by: M. Carr

Seconded by: K. Semon

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

Motion Approved

**Town of Glenville
18 Glenridge Road**

**Recommendation to Town Board
Zoning Code Amendment
Large Scale Solar Energy Farm
Overlay District &
SEQR Determination**

The proposed solar energy local law is to create a solar overlay district which allows installation of solar farms as a source of renewable energy that serves the community. It provides for the responsible development of parcels adequately sized that are located near substations but are otherwise difficult to develop. The development of large-scale solar requires consideration of the neighborhood's needs

including but not limited to aesthetics, safety and private investment into community amenities, such as the park system. Furthermore, this Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of Town by creating regulations for the installation and use of solar energy generating systems and equipment.

J. Gibney asked if this amendment is town-wide or only for the two parcels that currently meet the requirements.

M. Cherubino replied there are several reasons why it was decided to create an overlay district with constraints. First, many residents don't want to see solar everywhere and the hosting capacity is easier/cheaper next to an existing substation, and although the two parcels meet the 30-acre requirement, that wouldn't preclude anyone from buying several parcels and merging them nearby. Secondly, it is difficult to get funding for residential near substations as there are questions regarding their safety, unsightliness, etc. Thirdly, we don't know what the future holds with any new substations being built in Glenville.

J. Gibney asked what was the determining factor stating the location should be within ½ mile of a substation. Was that a state requirement?

M. Cherubino said if you are further from the substation it become more costly to connect. The land use restrictions were the town's, the solar rules were NYSEERDA mostly as we did make some amendments. The bonding issue was re-written to include a letter of credit, as issues of obtaining a bond can be difficult.

J. Gibney read the following from the proposed amendment, *"Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district."* What is the typical lot coverage – 70%? Obviously, a solar developer would want to utilize as much of the property as possible.

M. Burns replied usually 35% of the lot would be covered by building or structures. As he recalls the definition of lot coverage includes structures and buildings - not roads, storm water ponds. He doesn't believe this legislation has a percentage listed so it falls to the underlying district.

A discussion took place about what components fall under disruption of the property.

J. Gibney asked is there a limit on the kilowatt amount this will be able to produce.

M. Cherubino said there would be an agreement between the power company and the solar company as it would depend on how much the substation can take in.

K. Semon asked about the decommissioning plan. He worries about a company forming an LLC, selling it in the future to another LLC, and it goes bankrupt. How does the letter of credit offer security?

M. Cherubino said the letter of credit is issued from a bank for financial responsibility.

J. Gibney asked about the public benefit. The \$10,000 per acre is for the economic benefit of the town.

How will it be used. Is it a state requirement?

C. Heinel said it will be used in the same manner as collecting recreational fees for subdivisions for park lands.

M. Cherubino also said it will allow putting money into another area to help preserve the balance of green space and development. This requirement is town based, not state. It's based on developed land, so the infrastructure would be included since it will be disturbed land. Anything being built would be included.

K. Semon inquired about tree cutting and read "*no more than 30% of existing tree stand- measured by lot coverage of tree stands – should be removed.*" Are these potential properties heavily forested?

M. Cherubino said the way it was originally written was it had a requirement where we would ask them not to removed more than 30% of trees that had 6-inch diameter, but it was changed to 30% of the tree stand coverage. So, no more than 30% of the existing trees can be removed.

M. Burns responded to the previous inquiry on the lot coverage question - this legislation includes paved driveways/roads not just building structures.

M. Carr asked if there are any proposals before the town.

M. Cherubino replied that the town has been receiving many inquiries.

MOTION

In the matter of the recommendation to the town board regarding the zoning code amendment for a large scale solar energy farms overlay district as well as the associated SEQR determination, the Planning and Zoning Commission recommends the town board approve the legislation as well as the SEQR determination. The PZC feels there are appropriate checks and balances in place not only to protect the town, but also to allow for this type of development.

Motion

Moved by: M. Carr

Seconded by: J. Gibney

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

Motion Approved

With no further business the meeting was adjourned at 8:04 P.M.

Lynn Walkuski
Stenographer

Linda Neals
Town Clerk