

PLANNING AND ZONING COMMISSION

Town of Glenville

18 Glenridge Road

Glenville, NY 12302

November 19, 2018

Present: M. Carr, Chairman, N. Brower Dobiesz, J. Lippmann, P. Ragucci, K. Semon

Also

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

Absent: J. Gibney, M. Tanner

Meeting called to order at 7:07 PM

Motion to approve the Agenda

Moved by: P. Ragucci

Seconded by: J. Lippmann

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

Motion Approved

Motion to approve minutes from the October 15, 2018 meeting

Moved by: J. Lippmann

Seconded by: P. Ragucci

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

Motion Approved

**Galesi Group
2160 Amsterdam Road**

**Minor (2-lot) Subdivision
(Final) – Public Hearing**

The Galesi Group is seeking to subdivide the existing 13.5-acre property at 2160 Amsterdam Road (NYS Route 5) into two lots. One parcel, consisting of 11.84 acres, would contain the existing CTDI facility, while the other 1.68-acre property would be vacant, and available as a building lot. The smaller parcel received an area variance from the Glenville Zoning Board of Appeals for insufficient lot depth on September 24. The property in question is located at the westernmost reaches of the Glenville Business & Technology Park, and is zoned “Research/Development/Technology.”

Dan Hershberg, Hershberg and Hershberg, and David Ahl, Galesi Group, were both present.

D. Hershberg stated he felt they have answered all of the Commission’s questions and were waiting to hear if the town received the County Referral back.

It was noted the County Referral was received and the County’s recommendation was approval of the proposal.

M. Carr said he wanted to review the Commission’s issues:

- Archeologically sensitive area

D. Hershberg stated it is identified in the Environmental Assessment Form mapper by DEC as an environmentally sensitive area. It is believed this area was previously disturbed however, it is not their intention to have any ground disturbance at this site. As a result, they do not believe any further action needs to be taken to satisfy that it is an archeologically sensitive area.

M. Carr asked if this property used to be the oil terminal and if the area has been cleaned up.

D. Ahl replied that it was the oil terminal and it has been cleaned up.

- Shoreline on the property

M. Carr inquired if the answer was changed on the Environmental Assessment Form (EAF).

D. Hershberg responded the EAF mapper indicated the property as “adjoining the Mohawk River” and the property does not.

- Receipt of required variance

D. Hershberg said they received the variance.

- The Town needs documentation of easement

M. Cuevas indicated the Town has received the easement.

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

MOTION

In the matter of the final minor subdivision application by the Galesi Group, for a two-lot subdivision located at 2160 Amsterdam Road, the PZC hereby approves the application. The Commission's decision is based upon the following findings:

The proposed use takes into consideration the relationship of this project to the neighborhood and the community, and the best use of the land being subdivided. Factors considered include:

- Compliance with the requirements of the Zoning Ordinance and the policies of the Comprehensive Plan.
- Logical arrangement, location and width of streets.
- The lots' and street(s)' relationship to the topography of the site.
- Adequacy and arrangement of water supply, sewage disposal and drainage.
- Accommodation for future development of adjoining lands as yet unsubdivided.
- Adequacy of lot sizes to achieve the above.

It was noted since this application is commercial in nature, and not residential, the applicant will not be levied a recreation fee.

Motion

Moved by: M. Carr

Seconded by: K. Semon

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

Motion Approved

**Dana Yager for Modern Dance School
24 Pashley Road**

**Use Variance
Recommendation to the
Zoning Board of Appeals**

The applicant/owner is seeking approval to operate a dance studio in the former Glenridge Grange building at 24 Pashley Road. The property is zoned "Suburban Residential (SR)," which is a zoning district that does not allow dance studios.

Dana Yager, the applicant, was present.

Ms. Yager stated her plan is to continue running the dance studio that has been operating out of this location for the past 48 years. She bought the business about 2 ½ years ago from Ginny Martin and she worked for Ginny Martin for about 8 years. She operates the business in the same manner as Ginny Martin did. There is no intention to build the business and therefore there won't be any change to parking, traffic, etc. The only thing that has changed is the exterior upkeep of the property i.e. landscaping, mowing.

K. Semon asked who was the building purchased from.

D. Yager said it was bought from the Grange. The Grange approached Ms. Yager in September 2017 honoring an agreement it had with Ginny Martin that if the Grange was going to sell the property, they would give her first consideration in purchasing the property.

K. Semon inquired if the Grange presented to the Town what activities were taking place at this location.

D. Yager replied to her knowledge the Grange had not informed the Town and her conversations with the Town also indicated the Town was unaware of the dance studio being run at this property.

M. Carr said the dance studio is being run in a zoning district that technically doesn't allow that use. As a zoning board, they are charged with maintaining the zoning code.

J. Lippmann asked M. Cuevas about the history of zoning on this particular parcel and if the applicant would be able to "grandfather" this business in this location.

M. Cuevas replied the Town has a long history of zoning going back to the 1930's. The code was updated in the early 2000s. The Suburban Residential (SR) districts have not really changed much in the fact that commercial enterprises are not allowed in SR. The Grange was established in the 30's allowing for uses that would not be recognized today.

J. Lippmann said her understanding is that the dance studio has been operating there for the last 48 years, of which Ms. Lippmann can attest to personally for the last 5 years, and typically the PZC can offer a grandfather exemption, as done with other properties where the use is not allowed by the current zoning. Why would that not apply in this situation?

M. Cuevas replied the general rule is at the time the use was established it was a legal use, but if the zoning changed that would make the use an illegal, non-conforming use then the grandfather exemption would be applied. The difficulty, from the Town's perspective, is that the Grange was a non-for-profit tax exempt organization and in order to maintain their tax-exempt status on the parcel a certification must be done each year indicating that (1) they as a not-for-profit tax-exempt organization own the property and (2) they operate or use the property for a not-for-profit/charitable/exempt purpose. Up until this purchase that is how the Grange was filing and this property was tax exempt. That being said, not-for-profit organizations, on an occasional basis, may rent out their facility for parties, etc. That would not cause the organization to lose their tax-exempt status, but if they were leasing their property for a commercial use then they would have committed fraud by filing false annual statements.

J. Lippmann questioned whether the use has been an operating business for 48 years and renting it more than just occasionally. What was the code back then that would allow the applicant to claim a grandfather exemption?

M. Cuevas stated he would research the code from 1967 - 1970 to see what the code was then.

K. Semon stated knowing when was the first rental agreement/contract was executed would be beneficial.

M. Carr stated that ultimately the PZC is only making a recommendation to the ZBA and is not making the decision. Although the use has been a historical use, if the use variance is granted there are site plan review issues that would need to be addressed such as parking, traffic, sanitary facilities, proximity to Pashley Elementary school, building set-backs, screening, etc. If the business expands or there is a use intensification it could possibly become an issue. The PZC is sympathetic to the applicant, however, the zoning is in place and as such, it would be recommended that the Use Variance not be granted. That being said, if the applicant has any documentation that would support her request it should be presented to the ZBA.

D. Yager stated she gathered letters of support from neighbors of the Grange as a result of a conversation she had with T. Petricca, Building Department.

K. Semon stated he believes that the use is well suited to the building however, he questions if there is a continuity of one business to another business.

J. Lippmann said she believes the continuity of business is there, but whether or not it was a permitted use in the first place is the question. She thinks there are three options available for the applicant; (1) can the business be grandfathered, (2) obtain a use variance – which is difficult to obtain based on the criteria required, or (3) make an appeal to the Town Board to modify the zoning to Professional/Residential to include the property in question which allows for instructional use.

A discussion took place regarding the purchase of the previous business and whether or not it was a LLC and would that have any effect. M. Cuevas said it would not have any effect.

An additional discussion took place regarding the building's future use and its historical use.

Chairman Carr reiterated that the Commission is not against what the applicant is proposing, but rather the Commission needs to follow the rules/laws as they currently stand. Intensity of use could be an issue if the business sees a growth in enrollment.

D. Yager stated she knows that the business has had a decrease in enrollment and there weren't any objections when the business was larger than it is now.

N. Brower-Dobiesz asked if the application could be tabled until it can be determined what the old zoning was for the parcel.

The applicant, D. Yager, said she would be fine with tabling her application.

M. Cuevas stated the applicant is scheduled to appear before the Zoning Board of Appeals (ZBA) on November 26th, 2018 and without a recommendation from the PZC then the ZBA will not be able to act.

Another discussion took place regarding the criteria for the approval of a use variance and site plan review. The Commission was reminded that their purpose is to look at all the other factors similar to

site plan review. Commission members were discussing the approved uses and the point of a use variance. Continued discussion about what the Commission is entrusted to do and their recommendation. Comparisons were made between this application and another business that the PZC made a recommendation on to the ZBA. Further discussion by the Commission members on whether or not a recommendation should be given to the ZBA.

MOTION

In the matter of the conditional use permit application by Dana Yager to establish a dance studio at 24 Pashley Road, the Planning and Zoning Commission recommends that the Zoning Board of Appeals disapprove the application based on the fact the use is not allowed in the current zone. However, if the applicant can provide enough information and meet the four criteria in order to obtain the use variance then that decision would come from the Zoning Board of Appeals.

Motion

Moved by: M. Carr

Seconded by: P. Ragucci

Ayes: 3 **Noes:** 1 **Absent:** 2 **Abstention:** 1

Motion Not Carried
(lack of sufficient votes)

M. Cuevas stated the guidance that is to be provided to the ZBA is whether the PZC has any site plan concerns.

M. Carr introduced the site plan issues that need to be addressed i.e. traffic, parking, sanitary sewers/septic, proximity to Pashley School, building setback, screening or any other potential issues that with significant growth could have an impact on the residential neighborhood.

M. Carr asked M. Cuevas what is next.

M. Cuevas read the following *“The ZBA may also be guided by recommendations of the Planning and Zoning Commission on considering site design elements and conditions/restrictions. The PZC reviews elements of the use variance proposal that are typically evaluated as part of the site plan review, as listed in Article XVI, §270-107, of this chapter. The PZC will conduct its review and forward its comments and recommendations to the ZBA. In its report to the ZBA, the PZC will recommend approval, approval with conditions, or disapproval of the use variance. If the PZC recommends approval with conditions, or disapproval, the PZC is to detail its findings in written form to the ZBA.”*

Another discussion took place among the Commission members as to the size of the lot, where the septic is located, whether the parking lot is striped or not, etc. There has not been a site plan submitted to the PZC.

J. Lippmann asked whether the PZC recommendation to the ZBA is based upon site plan review elements or not.

M. Cuevas replied the PZC is not to apply the ZBA test.

K. Semon suggested a vote be taken to table this application and also for the ZBA to remove this application from the ZBA agenda until further information can be obtained from the applicant.

MOTION

In the matter of the approval for the operation of a dance studio in the former Glenville Grange located at 24 Pashley Road for the recommendation of a use variance to the Zoning Board of Appeals, the Planning and Zoning Commission recommends that this application be tabled until additional site plan information is submitted including but not limited to parking, traffic, septic information, building setbacks, screening and proximity to Pashley Elementary School, bus traffic, etc. in order to make a more informed decision. It is also requested that the ZBA table or remove this application from their agenda pending the PZC's receipt and review of said information. For the record, the PZC is sympathetic to the applicant however, there is a framework in place that the PZC is to follow.

Motion

Moved by: M. Carr

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

Motion Approved

Craig Serafini
748 Rector Road

Conceptual Site Plan

This concept calls for the establishment of a rifle shooting range and a pistol range on a 47-acre property. The proposal also includes creation of a 20-space gravel parking lot, restroom trailer, and electronic controlled access gate. The existing single-family home on the property would remain, as would the existing cell tower. This proposal requires both site plan approval and a conditional use permit. The property is zoned "Rural Residential/Agricultural."

John Romeo, Insite Northeast, and Craig Serafini, Upstate Guns & Ammo, were present.

J. Romeo gave an overview of the concept. Currently a 47-acre site with a residential structure and several out buildings that has been used as a private gun club for friends/family and neighbors. There is an existing pistol range, a junkyard, and the area just north of the cell tower is used as an open shooting range for shotguns. There are also several ponds on the heavily wooded property. Most of the property has a very significant buffer and there are several neighboring houses. The applicant is looking to commercialize the property and bring it up to modern safety standards to include berms, backstops, safety gate, fire access turnarounds, and parking lot to facilitate emergency access. There will not be any public water or sewer on the property. However, a rest room trailer will be provided where the water will be trucked in and the sewage will be trucked out. There will be a gravel parking lot with a covered firing line where the existing pistol range is now. A new rifle range will be constructed meeting or exceeding federal and state standards with regard to firearms. There will be minimal site disturbance for the construction of paths. A site survey is in progress. The existing single-family residence will be occupied by a permanent staff member/resident care taker. Any firearms/ammo that will be kept on site will be under lock and key exceeding state and federal regulations. The intent is not actually to have all firearms kept on site, but most firearms to be used will be personal and will be brought in and out based on the people using the facility. All individuals using the facility are planned to be members, and

required to take a safety course and operate under the guidance of the facility owners. The idea is to also open this facility to the police, Boy Scouts, Girl Scouts or any other youth or adult organization to have more accessibility to a facility providing a safe environment for shooting weapons.

K. Semon asked what is the leased area on the property.

J. Romeo replied that is the cell tower.

M. Carr asked who is the regulating authority for rifle shooting ranges.

J. Romeo said it was a combination of ATF and federal regulations. At that time C. Serafini stated he believed there are no federal regulations and therefore, it defaults to the local police force and the ordinances default to national shooting sports or NRA standards.

M. Carr stated the Commission wants definitive answers on who is governing this project.

C. Serafini asked M. Cuevas if he knew who the authority is in town.

M. Cuevas said the only entity in town would be the police department as well as Zoning, but there are national organizations that set safety standards for shooting ranges.

M. Carr also asked if there are any specific design criteria for shooting ranges i.e. distances, height of berms, distances from houses, etc.

J. Romeo said there are recommendations based on NRA standards.

K. Semon said the project is being portrayed as following the recommendations, but the Commission doesn't know what the standards are and they would like the information.

J. Romeo said he would get the information to the Commission.

J. Lippmann asked for any recommended offsets from property lines to be included in the information that is to be provided.

M. Carr inquired about the type of weapons that will be allowed here i.e. handguns, long rifles, automatic or semi-automatic.

J. Romeo replied at this time there is no restriction as to the type as long as it is legally owned and allowable in NYS.

M. Carr asked about environmental issues, in particular, about the junkyard that is on-site.

J. Romeo stated the intent is to clean up and remove and properly dispose of the items in the junkyard i.e. old cars, broken dishwashers and construct the rifle range on top of it.

M. Carr asked about the ammunition, lead reclamation and are there lead reclamation provisions in the existing regulations.

C. Serafini stated he doesn't believe there are provisions, but since lead is a valuable commodity there will be periodic collection and recycling of the lead.

M. Carr next asked what are the hours of operation. He indicated there should be some consideration given to the surrounding neighbors.

J. Romeo responded the hours will be from sunup to sundown. The intent is to have mixed hours throughout the day depending on the group.

C. Serafini said there isn't any intent to have the range in use at 5:00AM, although it would be permissible since it is a hunting land, but common sense would be implemented.

M. Carr asked for a description of the proposed safety program.

J. Romeo said there will be an electronic code-controlled access gate. Only members and the caretaker will be allowed in to use the facility. Any firearms/ammunition stored on-site will be under lock and key. There will be an emergency first aid kit, the fire department/emergency services will have an override switch or have some type of tag to open the gate. The safety training program will be developed in accordance with the rules/regulations that apply and those will be provided.

C. Serafini stated that anyone who wants to become a member will have to attend a safety course and sign documentation that they did attend the course and they understood it. There will be cameras on the facility at all times. Anyone who acts in an unsafe manner will be removed permanently from the facility.

P. Ragucci asked if any baffles would be constructed to prevent ricocheting.

C. Serafini replied that due to the size of the property, there is no need for baffles. They are usually used so that the gun can't be elevated and shoot in an arc.

J. Romeo said the pistols are being shot towards the interior of the property in an area that is elevated with berms to be created.

M. Carr asked about the removal of the septic sewage.

J. Romeo replied there will be an on-site rest room truck.

A. Briscoe said that will need to be approved by the County.

P. Ragucci asked if there are any plans to subdivide in the future to have the single-family home separate.

J. Romeo responded at this point there is no intention for subdivision.

J. Lippmann asked where the guns/ammo will be stored.

J. Romeo said although not identified on the plans, the intent is to have a small structure near the care takers' residence or somewhere near the restroom trailer. It will be a ground secured structure.

K. Semon asked if the stored weapons would be for training.

C. Serafini replied it would be more like target shooting for groups.

K. Semon questioned about the noise that will be generated and if the applicant has spoken to any of the surrounding neighbors.

C. Serafini stated he has not spoken to any of the neighbors. He wanted to get feedback first from the Commission regarding his plan and since this has been a gun range since the 1950s, he is not aware of any complaints, although he will reach out to them.

M. Carr noted that the intensity of use will increase and that is a criteria the Commission reviews.

K. Semon suggested that noise levels should be looked at the property line because there are town requirements for noise at the property line; specifically, no greater than 70dBA.

M. Carr reviewed what the Commission is looking for; definitive answers on who the regulating authority is, specific design criteria i.e. who designs it, will it comply with national standards and what is the compliance program for construction, definitive answer on lead reclamation process, layout of the sewage proposal, description on the types of weapons – if there are any restrictions, commitment to clean up the junkyard, specific hours of operation, noise measurements and development of safety program.

N. Brower Dobiesz asked if the applicant has already approached the police department and did the police have any comments regarding layout, etc.

C. Serafini replied he has had a conversation with police department regarding their potential use of the facility for their safety training. The police didn't look at the layouts, they were going to look at the safety standards.

A discussion took place regarding what firearms will be allowed and what is legal in NYS.

**Bohler Engineering for Aldi
303 Saratoga Road**

**Request for waiver from
the Town Center Overlay
District requirements**

Aldi's is seeking a waiver from Section 270-133G(3)(c) of the Town Code, which calls for the screening of mechanical equipment, in this instance, utility units on the rooftop. The property is zoned "General Business" and "Town Center Overlay."

Rob Osterhoudt, Bohler Engineering, was present.

R. Osterhoudt stated Aldi's was flagged on the rooftop unit that sits in the central portion of the roof. A small portion of the unit does extend above the parapet. At this time Mr. Osterhoudt showed the Commission pictures of the unit from the sidewalks and other locations from the site.

K. Semon asked what color is the unit.

R. Osterhoudt said it is lighter color similar to a white.

A discussion took place with regard to the loading dock gate and the removal of the house on the lot.

R. Osterhoudt stated the difficulty with installing a screen at this point would be cutting through a roof and possible structural modifications due to wind loads on the screens.

A discussion took place about painting the rooftop unit to match the color of the building.

R. Osterhoudt said the unit vendor was contacted and the unit can be painted another color.

MOTION

The request for a waiver by Bohler Engineering on behalf of Aldi's from Section 270-133G(3)(c) of the Town Code, which calls for the screening of mechanical equipment, in this instance, utility units on the rooftop, the Planning and Zoning Commission will be satisfied if Aldi's paints the exterior of the rooftop unit a darker shade to match the existing brick on the façade of the building. A final determination needs to be made by the Town Building Department on the conditions of site plan approval and including any minutes or discussions regarding the loading dock gate. Additionally, the demolition of the house on Sheffield needs to be looked at to determine if this was a condition of site plan approval.

Motion

Moved by: M. Carr

Seconded by: K. Semon

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

Motion Approved

**Ryan Cullinan for Hewitt's Garden Center
3 Charlton Road**

**Site Plan Review
(Preliminary)**

Hewitt's is proposing to build a new 3,600 sq. ft. warehouse to the rear of two existing warehouses on their Charlton Road property. The property is zoned "Community Business."

Ryan Cullinan, the applicant, was present.

R. Cullinan wants to build a new warehouse behind the current warehouse for storage. The problem was the applicant would exceed the 20,000 sq. ft. maximum building space as prescribed by the zoned Community Business District zoning regulations if he were to build this new warehouse. To get under the 20,000 sq. ft. cap, they're proposing to demolish part of a greenhouse they are not using which will allow for the additional square footage.

M. Carr asked what will be stored in the warehouse.

R. Cullinan stated it will be basically seasonal items i.e. bird seed, Christmas products, lawn/garden items in addition to fertilizers, hoses, etc.

M. Carr said the Commission will want to see a list of the type of fertilizers/chemicals that will be stored in the warehouse.

M. Carr asked how old is the greenhouse that will be torn down and how will the debris be disposed.

R. Cullinan said the metal hoops will be brought to another location and reused, while the plastic cover will be thrown in the dumpster.

M. Carr asked if the new structure will be a permanent structure and will there be floor drains.

R. Cullinan said the structure is permanent and there will not be any floor drains installed.

MOTION

In the matter of the site plan review application by Hewitt's for a new 3,600 sq. ft. warehouse located at 3 Charlton Road, the PZC finds that this application will not result in a significant potential adverse environmental impact. Consequently, the PZC hereby issues a negative declaration.

Motion

Moved by: M. Carr

Seconded by: P. Ragucci

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

Motion Approved

MOTION

In the matter of the preliminary site plan review application by Ryan Cullinan for Hewitt's Garden Center proposing to construct a new 3,600 sq. ft. warehouse located at 3 Charlton Road, the PZC hereby conditionally approves the application.

Conditions of the preliminary approval are as follows:

1. The applicant must submit a list of materials being stored in the warehouse.
2. The applicant needs to make sure the structure will not allow for any chemicals to be released and therefore allow contamination of the environment.

The Commission hereby schedules a public hearing for 12/10/18 to consider the final site plan review application for this particular project. However, in order for the Commission to schedule a public hearing for 12/10/18, nine (9) copies of the revised site plan must be submitted to the Town of Glenville Planning Department no later than 14 calendar days prior to the public hearing date.

Motion

Moved by: M. Carr

Seconded by: P. Ragucci

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

Motion Approved

**Paul Sciocchetti for Markie Blackburn
4057 Amsterdam Road**

**Site Plan Review
(Preliminary) and
Recommendation on
Conditional Use Permit to the
Zoning Board of Appeals**

This proposal calls for the establishment of a dog kennel and dog rehabilitation business on Route 5, on the property/buildings formerly occupied by Paws Along the Mohawk. The property is split-zoned, with “Highway Commercial (HC)” occupying about 1.6 acres of the front portion of the property, along Route 5, and “Riverfront Recreation/Commercial (RRC)” occupying the rear 9.7 acres. Dog kennels are not permitted in the RRC district, so the applicant is concurrently seeking a zoning map amendment from the Town Board to extend the HC zoning further south on the property, so as to capture all of the buildings that would be occupied by the new business within the HC district.

John Romeo, Insite Northeast, was present.

J. Romeo stated they are interested in changing the zoning on the portion of the parcel that includes the buildings instead of the entire parcel based on conversations they have had with the Town. He also showed to the Commission what the proposed sign and name of the business will be.

M. Carr stated the PZC could not act until the Town Board has voted on the proposed rezoning of the parcel. The applicant is on the Town Board’s November 21, 2018 agenda.

With no further business the meeting was adjourned at 8:55P.M.

Lynn Walkuski
Stenographer

Linda Neals
Town Clerk