

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday January 28, 2019**

PRESENT: Chairman: David Hennel; Dick Schlansker, Beth Kissinger, Juliano Febo

ABSENT: Bruce Wurz, Attorney: Michael Cuevas

ALSO ATTENDING: Code Enforcement: Terri Petricca, Arnold Briscoe; Stenographer: Jen Vullo; Deputy Building Inspector: James Pangburn

Chairman Hennel called the meeting to order at 7:03 P.M.

MOTION: To accept the November 2018 minutes as amended.

MOVED BY: B. Kissinger

SECONDED: J. Febo

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

ABSTAIN: 0

MOTION CARRIED

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PUBLIC HEARING

Application of McDonald's USA, LLC, 110 N. Carpenter St., Chicago, IL 60607 for a **Sign Variance** for their site located at **237 Saratoga Road, Glenville, NY 12302**. As part of their remodel project, the applicant is seeking approval to place one McDonalds sign along with two "M" logo signs, for a total of three wall signs. The property is located in the General Business and Town Center Overlay Zoning Districts and is identified on tax map 22.11-3-14.11.

In accordance with the Codes of the Town of Glenville 270-133, I, (5), (i): A maximum of one wall sign is permitted for each business. The applicant proposes three wall signs and is therefore requesting a variance of 2 additional wall signs.

B. Kissinger read the application and review factors for the variance requests into the record.

Sent to 52 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel asked the applicant if he had any comment to share with the Board. Owen Speulstra, Bohler Engineering, presented diagrams showing location of proposed signs and elevation. He feels they tried to incorporate all of the Planning Board's requests, including visual interest upgrades.

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. No response.

Chairman Hennel solicited questions from the Board members. He clarified the exact location of the signs on the front elevation and northern side of the building.

B. Kissinger inquired if the signs are LED illuminated. O. Speulstra replied yes, only the signs are lighted.

MOTION:

The applicant having applied for a sign variance after having been denied a building permit to erect or construct a sign at 237 Saratoga Road in the Town of Glenville, New York; and

The applicant having applied for a sign variance with regard to the sign changes to the future renovated McDonalds Restaurant, located in the General Business and Town Center Overlay districts and is identified on tax map 22.11-3-14.11. In accordance with the codes of the Town of Glenville 270-133, I, (5), (i): a maximum of one wall sign is permitted for each business. The applicant proposes three wall signs and is therefore requesting a variance of 2 additional wall signs.

Because the proposed sign would be in violation of such restriction, and the Board having considered the application, after a full and complete public hearing, and after having considered:

1. Whether the variance results in changes in character to the neighborhood or nearby properties. Finding of fact:

No, this property is in the General Business district and currently has multiple building signs. The surrounding properties are commercial business as well. The total s/f of all proposed signs is less than the maximum allowed.

2. Whether the particular hardship or difficulty with which the applicant will suffer if the variance is not granted is relevant. Finding of fact:

The applicant can continue business without the variance, but the new signage will help patrons locate the restaurant easier, which could reduce the potential of vehicular traffic accidents while trying to locate this business.

3. Whether the benefit sought by the applicant can be achieved by some other feasible method. Finding of fact:

Yes, the applicant could have one building sign, but would not receive the identification desired.

4. Whether the requested variance is substantial. Finding of fact:

No, because the total building signage s/f is less than allowed.

5. Whether the variance will have an impact on traffic. Finding of fact:

Yes, I feel the variance will have a positive impact on traffic. Patrons will be able to find the business easier.

6. Whether the alleged difficulty is self-imposed which is relevant to consider, but does not alone preclude to the granting of this variance. Finding of fact:

Yes, because they could have only one building sign and still conduct business, but in this case has very little relevance.

Now, therefore be it resolved that this application for a sign variance be granted.

Conditions: none

MOTION:

Moved by: D. Schlansker

Seconded by: Chairman Hennel

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

MOTION APPROVED

Application of Benderson Development Co., LLC. 570 Delaware Ave., Buffalo, NY 14202 for a **Conditional Use Permit** that will allow for the establishment of a new 65 seat 2,500 s/f restaurant with the addition of an outside patio area at Hannaford Plaza, **262 Saratoga Road, Glenville, NY 12302.** The 5,611 s/f former Aubuchon Hardware space is proposed to be divided into 3 units as part of this project. The property is located in the General Business and Town Center Overlay Zoning Districts and is identified on tax map 22.00-1-1.2.

In accordance with the Codes of the Town of Glenville 270-19, D: Restaurants are permitted by Conditional Use and Site Plan Review. Therefore, the establishment of a restaurant requires a Conditional Use Permit.

B. Kissinger read the application and review factors for the variance requests into the record.

Sent to 55 neighboring property owners with no responses. This was referred to the County. They recommended approval on 1/22/19.

Letters received:

As part of the application: to ZBA from Benderson Development

Chairman Hennel asked the applicant if he had any comment to share with the Board. Matthew Oats, Benderson Development, explained the outdoor patio will stay within the already existing sidewalk. They proposed decorative fencing, but the planning board recommended bollards with a decorative cap for safety from traffic. They have agreed to this. They are also working with the sewer department to make sure they meet appropriate sewer codes.

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. No response.

Chairman Hennel solicited questions from the Board members. He asked if the primary entrance is the one off the front of the building. M. Oats confirmed this.

D. Schlansker stated that the previous occupant of the building accepted deliveries from the back of the building. Where will you accept deliveries since you don't occupy the back of the building? M. Oats explained that the side parking lot or back lot will be used.

Chairman Hennel asked if there was a door on the side of the building. M. Oats said he believes there is.

J. Febo asked where the dumpsters will be located. M. Oats explained that there is a shed in the back lot that will be removed and replaced with the dumpsters.

D. Schlansker asked if a traffic study was ever done. M. Oats said they did one around the Thanksgiving Holiday and determined there was more than enough parking available.

B. Kissinger inquired if there would be waste receptacles outside. M. Oats explained yes there will, and that they deploy their own property management to assess needs for this.

Chairman Hennel stated that they are in a Town Center Overlay district and asked if they are within code for signs. M. Oats said they are aware of this. He has not seen any plans for signs, but is aware they would have to come back if they don't meet code requirements.

D. Schlansker asked for verification of town codes for number of parking spaces required. T. Petricca explained there are a set number of parking spaces required for a shopping center regardless of use of that center, and there are enough spaces.

MOTION:

Whereas, the applicant having applied for a conditional use permit for property located in the Town of Glenville at 262 Saratoga Road, and the property is zoned General Business and Whereas, the applicant wants to use the property for a Five Guys restaurant, a use allowed in the district by issuance of a conditional use permit, and whereas, the Planning and Zoning Commission of the Town of Glenville has reviewed the application and has recommended that this board approve the application, and Whereas the Planning and Zoning Commission of the Town of Glenville has recommended the following conditions be attached to this permit:

And ,

Whereas a public hearing was held on January 28, 2019 to consider the application.

Now, therefore be it resolved that this be approved for the following reasons:

The Board of Appeals finds:

- A. The establishment, maintenance or operation of the use will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare. Fact for this:

We find the use will not be detrimental as the proposed location is within an established shopping plaza that includes other restaurant/fast food service and will be located in current vacant space.

- B. The use will not be injurious to the use and enjoyment of other property in the vicinity for purposes already permitted, nor substantially diminish or impair property values in the neighborhood. Fact for this:

We find the use will not be injurious to the use and enjoyment of other property. The PZC board is currently reviewing the site plan to ensure proper traffic flow and access and has recommended the project to ZBA board. Proposed restaurant is consistent with other nearby businesses within the shopping plaza and area. The use of vacant space potentially will enhance area property values.

- C. Establishment of the use will not impede the normal and orderly development and improvement of surrounding property. Fact for this:

We find proposed use will NOT impede development of surrounding property. Proposed use is consistent with area businesses. Designs and access to business appear well positioned within existing plaza.

- D. Adequate utilities, access roads, drainage and other necessary facilities have been provided or will be provided. Fact for this:

Adequate utilities, roads, drainage and facilities are already in place for existing plaza and will not be adversely impacted with this new business.

- E. Adequate measures have been or will be taken to provide entry and exit designed to minimize traffic congestion on the public streets. Fact for this:

We find adequate measures have been taken- as well as are being discussed further with PZC to ensure proper access and traffic flow to site. Applicant has submitted parking evaluation that proposes sufficient parking is available.

- F. The conditional use shall, in all other respects, conform to applicable rules, regulations and ordinances of the Town of Glenville and be consistent with the comprehensive and general development plan of the Town of Glenville. Fact for this:

We find the proposed use to be consistent with the master plan for the Town of Glenville and is consistent as well with the Town Center overlay district.

Conditions:

1. Recommend that PZC continue evaluation on traffic flow to ensure site plan provides sufficient access
2. Encourage applicant that by choosing site within Town Center overlay that minimal (or any) sign variances will accompany the development of this restaurant.

Now, therefore be it resolved that this application for a conditional use permit be granted.

MOTION:

Moved by: Chairman Hennel

Seconded by: B. Kissinger

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

MOTION APPROVED

Application of Sciocchetti & Abbott, PLCC, 800 Troy-Schenectady Rd., Suite 102, Latham, NY 12110 on behalf of the **Glenville Canine Rehabilitation Center and Kennel** for a **Conditional Use Permit at 4057 Amsterdam Road, Glenville, NY 12302**. Utilization of the existing structures is proposed along with the creation of walking paths and areas to the rear of the property. The property is split zoned between the Highway Commercial and Riverfront Recreation/Commercial zoning districts and is identified on tax map 20.00-4-31. The property is also located within the 100 yr floodplain boundary.

In accordance with the Codes of the Town of Glenville 270-19.1, D: Animal training facilities and kennels are permitted in the Highway Commercial zoning district by Conditional Use Permit.

B. Kissinger read the application and review factors for the variance requests into the record.

Sent to 11 neighboring property owners with no responses. This was referred to the County. They approved the application.

Chairman Hennel asked the applicant if he had any comment to share with the Board. John Romeo stated that a zoning change has occurred since the application was submitted. The property will remain split zoned, but the line has been moved. He confirmed that now all of the building is under one zone, the Highway Commercial district, so they can apply for the CUP. Other areas of the property remain under the Riverfront Recreation zoning, but will not include any buildings. They will use the rear of the property for walking dogs only. He explained that they are removing all existing signs and renovating all buildings. They are adding a landscaping plan, including 50 trees and some shrubs along Route 5 and neighboring properties, as well as grass walking paths. The former motel building will be used for kennels and offices. He stated where dumpsters, signs and outdoor kennels would be located. There is an open building that would be used as an outdoor kennel during the daytime only. A T-bar fence will outline the perimeter of the property as a secondary fence, while chain-linked fencing will be used to contain the dogs in kennels. A company has been hired to conduct waster removal once/day. He emphasized that the facility would be used to rehabilitate dogs as well as board them. A 10'x4' (40 s/f) sign will be installed. There are ample parking spaces according to town code.

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. No response.

Chairman Hennel solicited questions from the Board members. He expressed a concern regarding noise levels for the property to the west, and asked if that area could be screened with vegetation. J. Romeo explained that it is already heavily wooded there and they have proposed some additional trees.

D. Schlansker verified the zoning lines that were moved with the applicant. He noted that current buildings are in the side yard setback. T. Petricca stated that those buildings pre-existed so they don't require a variance. D. Schlansker clarified side property lines. J. Romeo noted a full height wall on one side.

Chairman Hennel clarified that they are not proposing new buildings in the Riverfront Recreation zone. J. Romeo acknowledged they are aware that no additional building can take place there.

T. Petricca asked if a caretaker would be onsite 24/7. Initially J. Romeo stated that if dogs are there, someone would be there too. He later clarified that he didn't know if it would instead be monitored via cameras. T. Petricca stated that in the event of an

emergency, should the dogs need to be evacuated, someone would either need to be there or a solid emergency contact number would be necessary.

J. Febo asked what the capacity for kenneling dogs is. J. Romeo said they can accommodate 30 dogs for boarding, 50 dogs for daycare, rehabilitation for 2 dogs.

Sherri Colanowski, owner of the property, stated she has never had a problem with the buildings on the property flooding. If it is properly monitored, someone could be there quickly in the event of an emergency. She feels this is a great new use for the property.

Chairman Hennel asked if we need an evacuation plan. T. Petricca said that if a solid contact is available that should be enough.

MOTION:

Whereas, the applicant having applied for a conditional use permit for property located in the Town of Glenville at 4057 Amsterdam Road, tax map id 20.00-4-31, and the property is zoned Highway Commercial and Riverfront Recreation/Commercial

and Whereas, the applicant wants to use the property for a canine rehabilitation center and dog kennel, a use allowed in the Highway Commercial district by issuance of a conditional use permit, and whereas, the Planning and Zoning Commission of the Town of Glenville has reviewed the application and has recommended that this board approve the application, and

Whereas the Planning and Zoning Commission of the Town of Glenville has recommended the following conditions be attached to this permit:

And ,

Whereas a public hearing was held on January 28, 2019 to consider the application.

Now, therefore be it resolved that this be approved/denied for the following reasons:

The Board of Appeals finds:

- A. The establishment, maintenance or operation of the use will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.
Fact for this:

Adjacent properties are commercial in nature with nearby agricultural and former airport site. We find this proposed use to not be a detrimental use at this site.

- B. The use will not be injurious to the use and enjoyment of other property in the vicinity for purposes already permitted, nor substantially diminish or impair property values in the neighborhood. Fact for this:

Area is commercially zoned and renovations to currently vacant structure should enhance the area. Use will maintain and enhance greenspace.

- C. Establishment of the use will not impede the normal and orderly development and improvement of surrounding property. Fact for this:

Proposed use will re-establish a business at otherwise vacant location. Proposed open design is consistent with surrounding properties.

- D. Adequate utilities, access roads, drainage and other necessary facilities have been provided or will be provided. Fact for this:

Applicant to leverage existing facilities and has provided documentation to support they are sufficient for use as a kennel where prior motel once was located.

- E. Adequate measures have been or will be taken to provide entry and exit designed to minimize traffic congestion on the public streets. Fact for this:

Applicant proposing to leverage existing curb cuts from busy Amsterdam Road. Turning lane also exists in area that can be leveraged.

- F. The conditional use shall, in all other respects, conform to applicable rules, regulations and ordinances of the Town of Glenville and be consistent with the comprehensive and general development plan of the Town of Glenville. Fact for this:

We find the proposed use to be consistent with the master plan for the Town of Glenville.

Conditions:

- 1) **Conditional use permit is only issued for the portion of the property zoned as "Highway Commercial". This conditional use permit does not include use of any other portions of parcel not zoned as "Highway Commercial".**
- 2) **No buildings or structures related to the business to be located on Riverfront Recreation zone unless otherwise allowed in that zone.**
- 3) **Applicant has confirmed that in the event of overnight boarding, the facility will be staffed or monitored 24/7, with ample contacts provided for emergency services.**

Now, therefore be it resolved that this application for a conditional use permit be granted.

MOTION:

Moved by: Chairman Hennel

Seconded by: B. Kissinger

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

MOTION APPROVED

Application of Matthew Stollmeyer, 31 Praise Lane, Glenville NY 12302 for two Area Variances that will allow for the construction of a new 40' x 50' (2,000 s/f) detached garage with a mean height of 17'. The property is located in the Suburban Residential Zoning District and is identified on tax map 22.18-1-69.

In accordance with the Codes of the Town of Glenville

- 1) 270-9, G (2): the maximum size of a detached accessory structure in the SR zoning district is 576 s/f. The applicant is proposing a 2,000 s/f detached accessory structure. Therefore, a variance of 1,424 s/f from this section of the code is requested.
- 2) 270-9, D: the mean height of an accessory structure in the SR zoning district shall not exceed 15'. The structure will have 22' peak height, however the mean height is 17'. Therefore, the applicant is seeking a variance of 2' from this section of the code.

B. Kissinger read the application and review factors for the variance requests into the record. She also noted that the sale of the property is contingent on obtaining this variance.

Sent to 28 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel asked the applicant if he had any comment to share with the Board. Matt Stollmeyer is the current owner. Miguel Teixeira wishes to obtain the property. He explained to all the neighbors the purpose of the proposed building to get everyone in favor of it. He stated that the structure is for personal use only to store cars.

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. No response.

Chairman Hennel solicited questions from the Board members. He asked if the applicant has a picture of the proposed project. M. Stollmeyer explained he did not have a picture and was waiting until approval for the permit to obtain one. M. Teixeira stated that the garage will have an all brick face with cream siding, windows and brick will match the existing house. He is not trying to bring down property values, but instead enhance them. The land will be surveyed, and the building will be moved back from what is on the application to please the neighbors.

B. Kissinger asked if the blacktop driveway would be extended. M. Teixeira confirmed this. She asked how many doors and if they would be standard size. M. Teixeira stated there would be 3 standard size doors.

J. Febo asked why the additional height is needed if standard doors are installed. M. Teixeira explained that he plans to install a car lift inside to stack cars. He needs 12' for the lift and additional space for the cars.

B. Kissinger asked if the house is listed on the market yet. M. Stollmeyer stated it is not listed.

Chairman Hennel asked if they were proposing any side setbacks. M. Teixeira replied no.

B. Kissinger inquired if there was a homeowner's association. M. Teixeira replied no.

D. Schlansker stated his concern is for the one neighbor. M. Teixeira met with the neighbors and everyone was ok with this, but did not obtain anything in writing from them to present to the board.

Chairman Hennel emphasized this property is unique. He asked which way the roof was going. M. Teixeira explained the roof angle and emphasized everything will match the house. M. Stollmeyer showed the board members a picture of the house.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 40x50 (2000 s/f) detached accessory building in the rear yard located at 31 Praise Lane in the Town of Glenville, New York; and

The applicant having applied for two area variances with regard to the codes of the Town of Glenville and seeks relief from the following:

- 1) 270-9, G (2): the maximum size of a detached accessory structure in the SR zoning district is 576 s/f. The applicant is proposing a 2,000 s/f detached accessory structure. Therefore, a variance of 1,424 s/f from this section of the code is requested.
- 2) 270-9, D: the mean height of an accessory structure in the SR zoning district shall not exceed 15'. The structure will have 22' peak height, however the mean height is 17'. Therefore, the applicant is seeking a variance of 2' from this section of the code.

because the proposed use of the property would be in violation of such restriction or setback requirement; and

The Board having considered the application, after a full and complete public hearing, 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 the variance results in any undesirable changes in character of the neighborhood or community, or a detriment to nearby properties. Finding of fact:

No, the two variances requested will not change the character of the neighborhood. The applicant's lot is large enough to support an accessory structure of this size. The structure will be located at the end of the driveway in the rear of the house. The footprint of the house is large in comparison to the structure and the house sits on the end of a dead-end street.

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact:

Yes, but to add storage and to keep the overall proportion to the footprint of the house, the structure needs to be of the size requested.

3. Whether the requested area variance is substantial. Finding of fact:
For variance 270-9,D, the additional height is only 2' and not substantial.
For variance 270-9,G, it is substantial, however, for reasons already stated, it will not be a detriment to the neighborhood.

4. Whether the area variance will have an adverse impact on the physical or environmental condition of the neighborhood or community. Finding of fact:

No, the applicant is agreeing to the condition of matching the aesthetics and materials to the pre-existing house.

5. Whether the alleged difficulty is self-imposed which is relevant to consider, but does not alone preclude the granting of the variance. Finding of fact:

Yes, it is self-imposed, however, the extra storage for equipment and vehicles as well as the larger overall footprint of the entire home's appearance will be positive to the neighborhood.

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

Conditions: Must match aesthetics and materials of existing house.

MOTION:

(max size)

Moved by: J. Febo

Seconded by: B. Kissinger

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

MOTION:

(mean height)

Moved by: J. Febo

Seconded by: B. Kissinger

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

MOTION APPROVED

MOTION: To adjourn the January 28, 2019 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: B. Kissinger

AYES: 4 (Hennel, Schlansker, Kissinger, Febo)

NOES: 0

ABSENT: 1 (Wurz)

MOTION APPROVED

Next agenda meeting: February 20, 2019

Next meeting: February 25, 2019

Submitted by,

Stenographer

Date

ZBA Chairman

Date

Town Clerk

Date

FINAL AS OF 2/25/19