**MEETING OF THE ZONING BOARD OF APPEALS**

**OF THE TOWN OF GLENVILLE**

**THE GLENVILLE MUNICIPAL CENTER**

**18 GLENRIDGE ROAD, GLENVILLE, NY 12302**

**Monday March 26, 2018**

**PRESENT:** Chairman: David Hennel, Vice Chairman: Joseph Vullo, Dick Schlansker, Jeff Stuhr, Bruce Wurz

**ABSENT:**

**ALSO ATTENDING:** Code Enforcement: Terri Petricca; Attorney: Michael Cuevas; Stenographer: Jen Vullo

Chairman Hennel called the meeting to order at 7:00 P.M.

**MOTION:** To accept the February 2018 minutes as amended.

**MOVED BY:** J. Stuhr

**SECONDED:** B. Wurz

**AYES: 5** (Hennel, Vullo, Schlansker, Stuhr, Wurz)

**NOES: 0**

**ABSENT: 0**

**ABSTAIN: 0**

**MOTION CARRIED**

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**PUBLIC HEARING**

**Continued Item:**

**Thrive Chiropractic, 353 Saratoga Road, Glenville, NY 12302** for two sign variances that will allow for the placement of a new 8’ high, 8.75 s/f monument sign 5’ from the front and side property lines.

The applicant is seeking variances from the Codes of the Town of Glenville as follows:

1. 270-69, B(1) – Maximum of 15 s/f of total sign display area is permitted. Said sign may be a wall sign, monument/ground sign or combination of both. The property has an existing 10 s/f wall sign. This additional monument sign would bring the total square footage of all signs to 18.75 s/f. Therefore, the applicant is seeking a variance of 3.85 s/f from this section of the code.
2. 270-69, B(2) – One ground sign is permitted and must be located a minimum of 20 feet from all property lines. The applicant is proposing 5’ setbacks from the front line along NYS Rt.50 and the northern side lot line. Therefore, he is seeking a variance of 15’ from the front and 15’ from the side lot line.

**Update:** Referral returned – defer to local consideration

**Note:** Applicant has reduced the wall sign on the building and is no longer requesting variance #1 (270-69 B(1))

Chairman Hennel asked the applicant if he had any comment to share with the Board.

No

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application.

Peter Moran, 22 Woodruff Drive, asked the Board not to have the sign illuminated

Chairman Hennel solicited questions from the Board members. D. Schlansker noted that the old sign was damaged, and asked that if the new sign gets damaged, that they please repair as necessary.

Chairman Hennel noted that since the applicant reduced the size of the wall sign, the need for the first variance is eliminated. He also noted that the applicant is amending the application to reflect that the sign will not be illuminated.

**MOTION:**

The applicant having applied for a sign variance after having been denied a building permit to erect or construct a sign at 353 Saratoga Road and the business of Thrive Chiropractic in the Town of Glenville, New York; and

The applicant having applied for a sign variance with regard to one sign variance; (270-69,B(2)) is for the location of the ground mounted sign to be a maximum of 20 ft from the property lines, 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:

The facts are no, the location of this sign will not negatively impact the character to the neighborhood and/or traffic. The sign meets the required size and the design is tastefully done. The existing arborvitaes are more valuable to remain as a screen than the changes created by the sign location.

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

Yes, there is really no other viable location for the new sign which will provide the business the necessary visibility in which they are trying to achieve.

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

No, for the same reasons as above.

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

Based on the percentage of the request, yes. But, the hardship is greater than the request and the applicant’s available options.

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

No, it will actually enable patients traveling south on Saratoga Road to more easily find the business location.

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:

This difficulty is self-imposed because the applicant has chosen to locate the parking lot across the entire front of the lot. But given the variance and the applicant’s options this location has the least impact.

Conditions: Sign is to be maintained by the business if damaged

Sign is never to be illuminated

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

**MOTION:**

**Moved by:** D. Schlansker

**Seconded by:** J. Vullo

**AYES: 5** (Hennel, Vullo, Schlansker, Stuhr, Wurz)

**NOES:** **0**

**ABSENT: 0**

**MOTION APPROVED**

**Continued Item:**

**John & LuAnn Schermerhorn, 2043 Amsterdam Road, Glenville, NY 12302** for an Area Variance that will allow for the placement of a 4’ 8” high fencing in the front yard.

The applicants are seeking a variance from the Codes of the Town of Glenville as follows:

1. 270-52,C,(2) – Fences on residential properties will not exceed four feet in height in the front yard, including along the side lot lines to the front of the front plane of the dwelling. Therefore, the applicants are seeking an 8” variance from this section of the code.

**Note:** Application amended to say: placement of a 5’9” high fencing in the front yard. Therefore, applicant is seeking a 1’9” variance.

**John & LuAnn Schermerhorn, 2043 Amsterdam Road, Glenville, NY 12302** for an Area Variance that will allow for the placement of 46’ x 10’ dog kennel and run in the front yard. These structures are already in place.

The applicants are seeking a variance from the Codes of the Town of Glenville as follows:

1. 270-9, C – No permitted accessory structures shall be located in any front yard. Dog houses and similar structures for pets are a listed permitted accessory structure. Therefore, the applicants are seeking total relief from this section of the code.

**Updates on both:** Referral returned – defer to local consideration. Revised plans have not been received.

Chairman Hennel said they would start with the dog kennel in the front yard first. He asked the applicant if he had any comment to share with the Board.

J. Schermerhorn presented new drawings/blueprints. He has changed the plan for the roofing material of the kennel from a tarp to a permanent wooden slatted material. The current location of the dog kennel has not changed. They are proposing moving the front yard fence back 30 feet, for a total of 42 feet from the road.

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 noted that he was glad the applicants will be moving the fence back 30 feet, but he thought they were looking at moving it 70 feet back. He asked the applicant to confirm the height of the fence. J. Schermerhorn replied that the height is 5’9”. After a lengthy discussion on the exact location, they determined that right now the fence is 12’ from the road, but they will be moving it 30’ back, for a total of 42’ from the road. The Board stated that they have 90 days to move the fence. The Board also requested the roof of the kennel be addressed within 90 days. The applicant requested that they be able to replace the 4 sections of the roof, 1 section at a time, for financial reasons. The Board stated that as long as the tarp is removed within 90 days, they can replace each section one at a time.

Note: the applicant revised application to specify that the kennel will be covered with a permanent roofing material. Applicant was also advised that this kennel was for storage of personal animals only, and not to be operated as a business or for breeding.

**MOTION:**

(Accessory structure location)

The applicant having applied for an area variance after having been denied a building permit to erect or construct an accessory structure in the front yard (consisting of a dog house and dog run) at 2043 Amsterdam Road in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the code of the Town of Glenville,

because the proposed use of the property would be in violation of such restriction or set back 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. Particular hardship/difficulty to the petitioner if the variance request is denied. Finding of fact:

As applicant states, there is limited space in the backyard and/or other locations-and considering applicant owns multiple large dogs, we see limited options for location for the dog house and dog run, this would cause hardship to the owner. Noted: the owner has already constructed dog run-self creating an additional hardship that won’t be considered as that was done without a variance and building permit.

1. Magnitude of the variance being sought. Finding of fact:

Yes, request is for total relief from code where accessory structures are not allowed in front yard. However, it is noted that nearly all of the dog house is located next to house and only a small portion of the dog house is in the “front yard”, while dog run is certainly within the front yard area.

1. Visual impacts to the immediate neighborhood if the variance is granted. Finding of fact:

No, limited impact to neighborhood due to vegetative screening around the dog house and dog run. Applicant has also agreed to accept a condition for this variance requiring that screening be maintained. Impact is also limited due to the distance from the road to the dog run being over 50’.

1. If the hardship/difficulty has been self-created. Finding of fact:

Yes, this hardship has been self-created based on request to locate a dog house/dog run in the front yard, which is relevant to consider, but that alone should not preclude the granting of this variance.

Conditions:

1. Applicant agrees to maintain vegetative screening that limits view of dog house/dog run from neighboring property and from view from Route 5.
2. Appearance and open style of fence used for dog run shall be maintained and not replaced with a solid fence.
3. Remove canvas within 90 days, kennel to be covered with permanent roof
4. Storage of personal animals only, not to be operated as a business or for breeding.

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

**MOTION:**

(Accessory structure location)

**Moved by:** Chairman Hennel

**Seconded by:** B. Wurz

**AYES: 4** (Hennel, Schlansker, Stuhr, Wurz)

**NOES:** **1** (Vullo)

**ABSENT: 0**

D. Schlansker asked T. Petricca if the applicant needs a permit to install the roofing material. T. Petricca informed the applicant that he needs to apply for a building permit to install the roof.

**MOTION APPROVED**

**MOTION:**

(Fence not to exceed 4’ height)

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 5’9” fence in the front yard at 2043 Amsterdam Road in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the code of the Town of Glenville,

because the proposed use of the property would be in violation of such restriction or set back 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. Particular hardship/difficulty to the petitioner if the variance request is denied. Finding of fact:

As applicant states, the limitation of 4’ fence surrounding entire front yard will cause issues as something this low could be jumped over by the Afghan hounds that live on the property, thus resulting in difficulty if variance is denied.

1. Magnitude of the variance being sought. Finding of fact:

The magnitude of this variance has been reduced from original request to allow for a fence over 5’ in height to surround the entire front yard. Applicant has revised application and agrees that the proposed 5’9” fence (that exceeds the 4’ allowable height) will be located in front yard but agrees will not be any closer than 42’ from edge of Amsterdam Road.

1. Visual impacts to the immediate neighborhood if the variance is granted. Finding of fact:

Applicant proposes that continuing the fence design from the back of property through the front yard will enhance the visual impact of the properties. Reduction in the amount of the yard that has the 5’9” fence will minimize the impacts to neighborhood and is more consistent with neighboring front yard setback distances.

1. If the hardship/difficulty has been self-created. Finding of fact:

Applicant has clarified that the property has unique characteristics with an 80’ drop in rear of property to the river. Applicant also has limited space in backyard due to installation of inground pool and desires fence to safeguard children and animals. However, this Board finds that this hardship is self-created as fence has already been installed without building permit.

Conditions:

1. Applicant agrees to maintain vegetative screening that limits view of fence from neighboring property and from view from Route 5.
2. Appearance and open style of fence shall be maintained and not replaced with a solid fence.
3. Applicant agrees to revised variance request allowing 5’9” fence to not be any closer than 42’ from the edge of Amsterdam Road. Applicant agrees to move fence exceeding 4’ in allowable height within 90 days.

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

**MOTION:**

(Fence not to exceed 4’ height)

**Moved by:** Chairman Hennel

**Seconded by:** J. Stuhr

**AYES: 5** (Hennel, Vullo, Schlansker, Stuhr, Wurz)

**NOES:** **0**

**ABSENT: 0**

**MOTION APPROVED**

**Application of James J. McCullough, 339 Vley Road, Glenville, NY 12302** for an Area Variance that will allow for the construction of a new 14’ x 11’6” storage shed attached to the rear of the existing garage. The new shed will replace the existing smaller shed. Said property is located in the Suburban Residential Zoning District and is identified on tax map 29.16-2-25.

The applicant is seeking a variance from the Codes of the Town of Glenville:

Section 270-9, G (4): The square footage of all combined accessory structures may not exceed 75% of the dwelling footprint. 75% of the dwelling footprint is 697 s/f. The total of all accessory structures is 1,764. Therefore, the applicant is seeking a variance of 1,067 s/f.

J. Vullo read the application and review factors for the variance requests into the record.

Sent to 69 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.

No

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. D. Schlansker asked the applicant to describe the materials to be used. J. McCullough responded that the materials would match the existing house, with the same pitch of the roof, same color.

J. Vullo asked the applicant to clarify if the structure was being added to the back of the garage. J. McCullough explained that the lean-to will be removed, and the new structure will be tied into the garage. It will not be a stand-alone structure.

B. Wurz asked T. Petricca what the rear setback is. She verified it is 10 feet, and explained it is a nonconforming setback. Thus, he can maintain that line, which he is.

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a new shed to replace an existing structure

at 339 Vley Road in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the code of the Town of Glenville

because the proposed use of the property would be in violation of such restriction or set back 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. Many of the neighborhood properties have sheds of similar size and height including a number of fences as well.

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

Yes. An existing carport could be converted to an enclosed storage shed at the loss of a covered parking spot.

1. Whether the requested area variance is substantial. Finding of fact:

Yes. Although the additional 53 square feet is minimal when compared to the existing accessory structure square footage already in place mainly due to the in- ground pool installation.

1. 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 new shed will replace an existing shed and be of similar material and lower than the height of the garage it will be attached to.

1. 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. Additional storage space is required for pool equipment and patio furniture.

Conditions:

* Siding will match the color and style of garage.
* Pitched roof height will be lower than existing garage roof.
* Roofing material shingle or metal, no fabric.

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

**MOTION:**

**Moved by:** B. Wurz

**Seconded by:** J. Vullo

**AYES: 5** (Hennel, Vullo, Schlansker, Stuhr, Wurz)

**NOES:** **0**

**ABSENT: 0**

**MOTION APPROVED**

**Application of Harry Elliott,** 1923 Dodge Street, Schenectady, NY 12306, for an Area Variance that will allow for the placement of an above ground swimming pool in the front yard of **144 Water Street, Glenville, NY 12302.** This pool has already been installed. Said property is located in the Suburban Residential Zoning District and is identified on tax map 29.10-2-14.

The applicant is seeking a variance from the Codes of the Town of Glenville:

Section 270-9, C: No permitted accessory structure shall be placed in any front yard. The applicant has placed the pool in the front yard. Therefore, he is seeking total relief from this section of the code.

J. Vullo read the application and review factors for the variance requests into the record.

Sent to 24 neighboring property owners with no responses. This was not referred to the County.

Included with the application:

Application for a permit

Chairman Hennel asked the applicant if he had any comment to share with the Board.

No

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. B. Wurz questioned the applicant on the dimensions on the diagram. How can your measurements add up to 72 feet on a 55 feet lot? The applicant responded that he measured from the edge of the pavement which includes the right-of-way.

Chairman Hennel asked the applicant if he was agreeable to maintain the trees as screening? The applicant responded yes.

B. Wurz inquired about maintaining the fence. The applicant explained that originally, he thought he was required to have a fence, realized he is not, but would like to put up a small picket fence just to separate things.

Chairman Hennel explained to the applicant that he can’t install anything greater than a 4’ fence. The homeowner agreed.

Chairman Hennel would like it noted that this is a uniquely shaped property to consider for this variance.

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a pool and a fence at 144 Water Street in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the code of the Town of Glenville

because the proposed use of the property would be in violation of such restriction or set back 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 pool has been constructed in a location that considers the septic tank and drywell positions. The parcel also is considered to have two front yards. No fence has been installed at this time.

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

No. The parcel is a corner lot and therefore is considered to have two front yards.

1. Whether the requested area variance is substantial. Finding of fact:

No. The pool is 20 feet in diameter.

1. 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 size and position of the pool directly impacts one neighbor to the east. A fence or buffer could minimize that impact. The neighbor to the south is a gravel pit.

1. 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. The applicant had a choice of whether or not to construct a pool and fence.

Conditions: A buffer will be maintained along the pool to minimize visual impact of neighbor to east

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

**MOTION:**

**Moved by:** B. Wurz

**Seconded by:** Chairman Hennel

**AYES: 5** (Hennel, Vullo, Schlansker, Stuhr, Wurz)

**NOES:** **0**

**ABSENT: 0**

**MOTION APPROVED**

**MOTION:** To adjourn the March 26, 2018 meeting of the Town of Glenville Zoning Board of Appeals.

**Moved by:** J. Vullo

**Seconded by:** D. Schlansker

**AYES: 5** (Hennel, Vullo, Schlansker, Stuhr, Wurz)

**NOES:** **0**

**ABSENT: 0**

**MOTION APPROVED**

Next meeting: April 23, 2018

Submitted by,

Jennifer Vullo

Jennifer Vullo

Stenographer

FINAL as of 04/23/18