

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday April 24, 2017**

PRESENT: Interim Chairman: Margaret Huff, Vice Chairman: Joseph Vullo, Dick Schlansker, Jeff Stuhr

ABSENT: Board Liason: David Hennel

ALSO ATTENDING: Attorneys: Michael Cuevas, Jay Plumley; Code Enforcement: Terri Petricca; Stenographer: Jen Vullo

Interim Chairman Huff called the meeting to order at 7:02 P.M. She stated what appeared on the agenda for this evening.

MOTION: To accept the April agenda.

MOVED BY: D. Schlansker

SECONDED: J. Stuhr

AYES: 4 (Vullo, Huff, Schlansker, Stuhr)

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION: To accept the March 2017 minutes as amended.

MOVED BY: J. Vullo

SECONDED: D. Schlansker

AYES: 3 (Vullo, Huff, Schlansker)

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Stuhr)

MOTION CARRIED

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PUBLIC HEARING

Re-Hearing Application of Wieslaw Naumowicz, 2866 P-Rynex Corners Road, Pattersonville, NY 12137, for a rehearing of a previously approved **area variance** regarding vacant property on Maura Lane. Property is zoned Rural

Residential and Agricultural and is identified on tax map 21.02-2-9.14 (lands formerly of Angelia Allen).

The minimum setback in the RRA district is 75'. The ZBA granted a variance to allow a 65' front setback on 7/24/2006. The applicant is seeking to modify the variance to allow for a 57' front setback.

It was noted that a unanimous vote was required to re-hear the application, and that was obtained at the previous ZBA meeting.

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

Sent to 20 neighboring property owners on 4/12/17 with no responses. This was not referred to the County.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. Wieslaw Naumowicz stated that he purchased the property with an existing building permit. Now that he has designed what size house he wants, he needs the variance to allow for the larger size house and bigger backyard.

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

Interim Chairman Huff solicited questions from the Board members. She stated that she looked at the neighborhood and feels that what the homeowner wants is consistent with the neighborhood. W. Naumowicz stated that he would still have the 70' setback and the proper ROW.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a house at 233 Maura Lane in the Town of Glenville, New York; and

The applicant having applied for an area variance with regard to the required 75 foot setback requesting that the setback be reduced 57feet 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 houses are located on large lots. While most conform to the required

setback, there is an exception across the street, 1 lot down, due to the requirements for that particular district

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact: No, the applicant is seeking the reduced setback so that a larger home may be built on the lot consistent with other homes in that area
3. Whether the requested area variance is substantial. Finding of fact: No, it's approximately an 18 foot variance from what is required
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
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, in order to build a house that fits in with the community

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

MOTION:

Moved by: Interim Chairman Huff

Seconded by: J. Vullo

AYES: 4 (Huff, Vullo, Schlansker. Stuhr)

NOES: 0

ABSENT: 0

MOTION APPROVED

Application of Peter & Barbara Notch, 57 Swaggertown Road, Glenville, NY 12302 for an **Area Variance** that would allow for a 6' high white vinyl stockade fence to be located in the front yard. This property is located on a corner and has 2 front yards. The fence would be located entirely in the front yard of Horstman Drive. This fence is already in place. Property is zoned Suburban Residential and is identified on tax map 30.5-4-43.

In accordance with the Codes of the Town of Glenville 270-52,C (2): the maximum height for a fence in any front yard shall be 4' high.

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

Sent to 65 neighboring property owners on 4/12/17 with no response. This was referred to the County on 4/10/17. As such, the Board cannot vote until 30 days has past or it has been received from the County.

Letters received:

1. Peter Notch submitted pictures of the fence to the Board

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. She first noted that she had received an email from A. Briscoe, Building Inspector, that he did indeed grant a permit to the applicant in error, that it did need a variance. She clarified that the difficulty with this application is not the height of the fence but the fact that a portion of it is in the ROW. She stated that the ZBA can approve extensions on the fence, but cannot approve something in the ROW. That would fall under the jurisdiction of the Town Highway Department. P. Notch stated that he followed all the rules, obtaining all approvals necessary, and is frustrated that there is now an issue at all. He stated that the original sketch submitted for approval showed the fence replacing a row of hedges that were already in the ROW. This was approved by the Building Inspector. He also stated that when the error was brought to their attention he was told he could remove the 6' fence and put up a 4' fence in its place. But there was no mention of the ROW violation. He has already spent a substantial amount of money to block the property behind them with arborvitaes. Barbara Notch noted that the property next door to them has been bad for 15 years, including a rusty truck, stovepipe, used cars, etc. They put up what they feel is an attractive fence, following all the rules the town required for permits.

Interim Chairman Huff stated that the Board understands their frustration, but that it is our job to enforce the town laws.

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application. Trudy Maggs, 54 Swaggertown Road, stated that she loved the fence when it was installed. She asked if the Town Board ever changes the laws for the ROW.

M. Cuevas, attorney, stated that the Highway Superintendent had been out to the site, and noted that it was in the ROW but that it did not create an impairment of visibility from either road bordering this property. There is a provision within the street standards of the code that permits the Highway Superintendent to allow other structures to be within the ROW. He can be the one to rule on this. M. Cuevas suggested that the applicant stop by the town clerk's office to obtain the proper form to permit work in a ROW. Once this is granted, the applicant can then come back before the ZBA to obtain an area variance for the height of the fence.

Interim Chairman Huff solicited questions from the Board members. She asked if they will extend the fence across the back portion of the property. The applicant replied no that the arborvitaes were planted for that.

J. Vullo asked the applicant if they have considered lowering the fence to 4' or removing the portion that is in the ROW. The applicant stated that it wouldn't be any better than what was there previously (hedges) to block the neighbor's property. A 6' fence is needed.

Tim Maggs, 54 Swaggertown Road, stated that to lower the fence would defeat the purpose of blocking the view of the debris in the neighbor's yard. He feels the fence helps all property values in the neighborhood.

B. Notch mentioned that other neighbors have commented on how much they love the fence. J. Vullo explained that they can't consider this unless it is submitted in writing or they are present at the meeting.

B. Notch asked the Board to clarify the steps necessary to keep the fence.

Interim Chairman Huff stated:

- 1- Contact the Highway Superintendent for the ROW permit
- 2- Present ZBA with approved permit
- 3- Return to ZBA for area variance regarding height of fence

The applicant requested that the application be tabled until further notice.

MOTION:

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

MOTION:

Moved by: Interim Chairman Huff

Seconded by: J. Vullo

AYES: 4 (Huff, Vullo, Schlansker, Stuhr)

NOES:

ABSENT:

MOTION TABLED

MOTION: To adjourn the April 24, 2017 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: J. Vullo

Seconded by: Interim Chairman Huff

AYES: 4 (Huff, Schlansker, Vullo, Stuhr)

NOES:

ABSENT:

MOTION CARRIED

Next meeting: May 22, 2017

Submitted by,

Jennifer Vullo

Jennifer Vullo
Stenographer

FINAL AS OF 5/22/17