

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday March 25, 2019**

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

ABSENT:

ALSO ATTENDING: Code Enforcement: Arnold Briscoe; Stenographer: Jen Vullo; Attorney: Jay Plumley

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

MOTION: To accept the February 2019 minutes as amended.

MOVED BY: Chairman Hennel

SECONDED: J. Febo

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

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Kissinger)

MOTION CARRIED

--

PUBLIC HEARING

Application of 718 K&E, LLC, 718 and 720 Saratoga Road, Glenville NY, 12302 for a Conditional Use Permit. (Continued from February 2019).

This was referred to the County and had not been received back as of our last meeting. This item was previously tabled until County review was complete or 30 days had passed. The County responded with recommendations.

Letters received:

Ray Gillen, County referral letter (dated 2/25/19), modified conditionally approved with DOT approval of highway access, County Health Department approval of septic system,

Town review of angled handicapped parking to be in compliance, improved drainage, easements noted on site plans, soil testing for septic system, etc

Chairman Hennel asked the applicant if he had any comment to share with the Board. Kurt Bedore, KB Engineering, and Ed Rovetel, applicant, introduced themselves. K. Bedore updated the Board on relevant items/changes since the last meeting. He submitted documentation to DOT. He received verbal comments back from them. DOT: Accepted the front entrance and curbing per plans
Concerned with drainage within the ROW, requested drainage be added to front of site
Requested traffic count – K. Bedore provided this

K. Bedore is currently pursuing County Health Department approval for septic system. He commented that the angle parking is compliant with town codes. He noted that the Town Engineer will look at the drainage proposal and the easement redirecting drainage downstream, including the culvert being increased from 12" to 24" and a stormwater analysis. He demonstrated the drainage paths on the diagrams for the Board. He noted the areas of disturbance are under 1 acre so they are compliant. He also explained that soil testing was done in the area of the septic to allow proper functioning. He pointed out on the plans areas of landscaping, signs, drainage, septic system. It was noted the plans for Revision 2 are dated 3/18/19 and will be forthcoming.

Chairman Hennel opened the public hearing:

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. None

Chairman Hennel solicited questions from the Board members. B. Wurz asked if any work was to be done regarding the ditch on the easterly line of the property. K. Bedore explained there would be no change to the ditch, however, the culvert would increase in size. He also explained the easement ends at the corner of the property.

D. Schlansker noted the new catch basin on the existing property. He asked if the current runoff drains onto Mr. Brenner's property? K. Bedore replied it currently does.

D. Schlansker also verified that the Board is voting on a CUP for 4877 s/f of Pizza Works space, not the whole building. Chairman Hennel answered yes, CUPs are for each space, so if the remaining space were occupied by a restaurant, they would have to apply for a CUP also.

J. Febo noted, in regards to Council Meadows, at the last meeting it was stated that you would address their drainage concerns. Do you believe you have? K. Bedore stated that they believe they have improved the situation with their drainage plan, while possibly even lowering the water table. He feels they are definitely not adding to the problem.

Chairman Hennel closed the public hearing:

MOTION:

Whereas, the applicant having applied for a conditional use permit for property located in the Town of Glenville at 718 and 720 Saratoga Road, and the property is zoned Community Business Zoning District and Whereas, the applicant wants to use a portion of the property for a 4877 s/f Pizza Works Restaurant, a use allowed in the Community Business 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 (with the following conditions, if applicable) the application, and

Whereas a public hearing was held by the Zoning Board of Appeals on February 25, 2019 and continued on March 25, 2019 to consider the application.

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

The Board of Appeals finds:

1. 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 that it will not be detrimental or endanger as the applicant has confirmed that project shall meet all state and various codes and that the scope of the project consists of building a new location for the existing restaurant on adjacent property and then offering the current location for lease as new commercial space.

2. The conditional use will not compromise the use and enjoyment of other property in the immediate vicinity, nor substantially diminish and impair property values within the neighborhood. Fact for this:

We find that it shall not impair values as applicant is proposing to develop vacant neighboring lots and to feature landscaping and screening to minimize impact on residential neighbors and improve drainage.

3. The establishment of the conditional 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. Applicant has confirmed that proper drainage and directed lighting have been designed for project and provide for improved drainage and groundwater conditions.

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

Adequate utilities and roads are already in place within commercial corridor for development on adjacent property at current site. Updates to drainage are proposed to reduce impact on neighboring parcels.

5. Adequate measures have, 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 proposed. Applicant is proposing to develop restaurant on neighboring property within commercial corridor with similar vehicular access to State Route 50. Site plans include plans for ingress and egress as well as cross circulation within parcels.

6. 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 applicant has agreed to comply with all applicable rules, regulations, and ordinances of the Town of Glenville.

Conditions of approval:

- 1) Formal Easement recorded on property deeds for drainage required on neighboring parcels
- 2) Town Highway approval for drainage
- 3) Issuance of building permit within 12 months per site plan dated 1/25/19 and revised 2/25/19

MOTION:

Moved by: Chairman Hennel

Seconded by: B. Wurz

AYES: 5 (Hennel, Schlansker, Febo, Wurz, Kissinger)

NOES: 0

ABSENT: 0

MOTION APPROVED

Application of Josh Seburn, 18 Carolyn Lane, Glenville NY, 12302 for **2 Area Variances** associated with the proposed construction of a new 24' X 24' detached garage/accessory structure. The property is located in the Suburban Residential Zoning District and is identified on tax map: 22.11-2-1 and is a corner lot.

In accordance with the Codes of Glenville, the following area variances are being requested.

270-9 C: Location. No permitted accessory use or building shall be located in any front yard. The applicant states that the building will be partially located in the front yard portion of the corner lot. A variance of 3.5 feet is being sought.

270-9 G (4): The combined footprint of all accessory structures may not exceed 75% of the footprint of the dwelling. The total square footage of all accessory structures

including the new detached garage would be 944 sq. ft. on the lot. 75% of the total square feet of the dwelling is 753 sq. ft. A variance of 191 sq. ft. is being sought.

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

Sent to 50 neighboring property owners with several responses. This was not referred to the County.

Letters received:

Josh Seburn 3/10/19

Consent letters: Mark McIntosh – 29 Cherry Lane

Lynda Schoonmaker – 24 Cherry Lane

Hannah Bourque – 16 Carolyn Lane

Jon Quinn – 13 Carolyn Lane

Objection letter: Louis and Sylvia Spradlin – 11 Carolyn Lane

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

Josh Seburn explained the structure will be used to store a vehicle plus additional storage. Current size is not adequate for vehicles and storage. Would like standard two car size garage. The current deck cannot be cut down, as this would require new support posts that would interfere with the septic line and pipes and would also impede on the distance he is required to be from the septic system.

Chairman Hennel opened the public hearing:

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. None

Chairman Hennel solicited questions from the Board members. He asked if he owns a vehicle that would require extra depth in the structure? J. Seburn replied yes.

D. Schlansker asked if the proposed structure was a two-piece modular unit, with a wood floor, and a 29 gauge metal roof? J. Seburn replied yes, it is a two-piece modular unit with a 29 gauge metal roof, but will have a concrete floor.

Chairman Hennel asked if the applicant would consider an asphalt roof to match the house, along with matching siding? J. Seburn replied yes to both.

D. Schlansker noted that while the Board would like the garage to be flush with the existing house, once the issue with the septic system was explained, they understand why it can't be.

Chairman Hennel stated for the record that this structure would be for personal use only, not commercial. J. Seburn agreed. Chairman Hennel also noted that while most properties in the neighborhood contain single car garages, there are some with multiple car garages. He also noted that the applicant's property has two front yards, making it a unique property. He stated that the applicant has more property frontage than most, and the deck is not visible from the front.

B. Kissinger asked how many feet the garage will be from the house? J. Seburn replied 12 feet.

B. Wurz asked if the concrete to be used was a slab? A. Briscoe noted that it can be a floating slab.

Chairman Hennel asked if there was a center wall between the two stalls in the garage? J. Seburn explained there is no center wall.

D. Schlansker asked if the applicant was changing the driveway? J. Seburn stated not now, but one stall will exit to grass.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 24x24 foot garage at 18 Carolyn Lane in the Town of Glenville, New York; and

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville Section(s) 270-9 C where accessory structures are not allowed in the front yard and 270-9 G (4) limiting the combined footprint of all accessory structures not to exceed 75% of the footprint of the dwelling

because the proposal would be in violation of the dimensional zoning regulations of the Town; and

The Zoning Board of Appeals having considered the application, after a full and complete public hearing held on March 25, 2019, 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 an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. Finding of fact:

We find impact to be relatively minor to neighbors with written support from the majority of neighbors. Applicant is replacing an existing smaller garage and has positioned the proposed garage to minimize impact to neighbors. The garage will not be visible to the one neighbor expressing concern on size and placement of the structure.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance. Finding of fact:

No, based on desired size of garage and existing structures (deck, shed, home) and the location of the septic field, locations for the new garage are limited. Applicant has confirmed size is necessary based on personal items that will be stored in garage and location of septic line and tank.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:

Variance requested related to accessory structure being located in front yard is limited to 3.5 feet from front plane of house alongside road. Variance requested related to overall footprint is for 191 s/f variance which results from total size of multiple accessory structures and is therefore substantial.

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

No, visual impact from Carolyn Lane will be limited, with only 3.5 feet of front edge of garage being visible from road where proposed roof peak will not rise higher than home peak. Garage is proposed to be located behind the front plane of the adjacent property along Cherry Lane. Width of 24x24 garage will be visible from Cherry Lane, but will shield view of deck in rear of home.

5. Whether there has been any self-created difficulty. Finding of fact:

Yes, the hardship is self-created as applicant is requesting a garage of this size in the proposed location, but does not alone preclude the granting of this variance.

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

Conditions:

- 1) Garage is only to be used for the storage of personal items. Not to be used for commercial purposes or as a residence.

- 2) Exterior (siding) materials on garage to match the type and color of the house, along with asphalt roofing.
- 3) Any exterior lighting illumination to be limited to own property

Chairman Hennel closed the public hearing:

MOTION:

Moved by: Chairman Hennel

Seconded by: B. Wurz

AYES: 5 (Hennel, Schlansker, Febo, Wurz, Kissinger)

NOES: 0

ABSENT: 0

MOTION APPROVED

MOTION: To adjourn the March 25, 2019 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: B. Kissinger

AYES: 5 (Hennel, Schlansker, Febo, Wurz, Kissinger)

NOES: 0

ABSENT: 0

MOTION APPROVED

Next agenda meeting: April 17, 2019

Next meeting: April 22, 2019

Submitted by,

Stenographer

Date

ZBA Chairman

Date

Town Clerk

Date

FINAL AS OF 5/20/19