

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday February 24, 2020**

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

ABSENT:

ALSO ATTENDING: Code Enforcement: Arnold Briscoe; Stenographer: Jen Vullo; Attorney: Courtney Heinel

Chairman Hennel called the meeting to order at 7:01 P.M. He noted that Mr. Martin is our new Board Liason.

MOTION: To accept the January 2020 minutes as amended.

MOVED BY: B. Kissinger

SECONDED: J. Febo

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

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Schlansker)

MOTION CARRIED

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PUBLIC HEARING

Application of Anne-Marie Kirkland, 305 Wren Street, Scotia NY 12302, for an Area Variance to adjust the common division line between two adjacent parcels, 305 Wren Street and 304 Lark Street owned by the applicant. The properties are located in the Suburban Residential Zoning District and are identified on the tax map as #29.19-1-17 and #29.19-1-21.

In accordance with the Codes of the Town of Glenville, the following area variance is being requested.

270 Attachment 1, Town of Glenville Table of Dimensional Regulations- The minimum lot depth for a parcel for a single-family use in the Suburban Residential Zoning District is 150 feet. The proposed lot depth for 305 Wren Street is 135.64 feet. A variance of 14.36 feet in depth is being sought. The proposed lot depth for 304 Lark Street is 114.36 feet. A variance of 35.64 feet is being sought.

270 Attachment 1, Town of Glenville Table of Dimensional Regulations- The minimum lot size for a parcel for a single-family use in the Suburban Residential Zoning District is 15,000 square feet. The proposed lot size is 9,743 square feet. A variance of 5,257 square feet is being sought.

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

Sent to neighboring property owners with one response. This was referred to the County and was received back.

Letters Received:

Randy and Cheryl McNeil, 303 Wren St. Scotia – would like current structure on lot B demolished or renovated but otherwise support the application

Included with application:

Land Surveyor narrative dated 1/13/20

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

Duane Rabideau, representing the applicant, explained the current property lines, proposed adjustments, and the desire to sell the other lot. He explained options for the existing structure, either refurbishing or demolishing, depending upon the new owners plans.

Chairman Hennel opened the public hearing:

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

In Favor:

Randy and Cheryl McNeil: would like approval so lot can be sold and developed with a new home.

Not necessarily opposed but would like more time to consider:

Roxanne Yager, 305 Lark St. – concerned with reconfiguration of lot lines. “Can we have more time to process this information before a decision is made tonight?” Concerned with environmental impact – there is a large tree on the lot that shouldn’t be removed. Currently the tree blocks wires from her picture window. Privacy adds to property values. If a new home is built it diminishes her privacy and property value. The current cottage on the lot is a concern. What about the tax assessed values? How will this impact her value?

Jean Wicks, 308 Lark St. – originally thought the property was going to be divided into two small lots, glad to see it will be one big lot. Concerned with structure that currently exists on the property and how it may already impede on the property line. D. Rabideau explained how lot B will go from a smaller lot to a larger one by moving the lot line. Also, if someone builds a new home on the lot, the old one has to come down. Town codes state you can’t have two homes on one lot.

Tim Moon, 305 Lark St. – concerned with new s/f of combined lots, and will there be a problem with lot depth of lot B. D. Rabideau stated the new combined s/f would be 15,007 s/f. Chairman Hennel explained that setbacks and variances may be needed depending on how the new owner develops the lot.

Donna Thompson, 306 Lark St. – in attendance to gather information. She wanted to confirm that currently it doesn't meet Town Codes for lot depth? Chairman Hennel explained that's why the current variances are being sought.

Chairman Hennel solicited questions from the Board members. He asked if 304 Lark St. is registered as vacant? A. Briscoe replied it is not. Chairman Hennel stated that the current vacant structure on that lot needs to be addressed. A. Kirkland explained that she was forced to purchase that lot when buying the Wren St. property. The plan is to sell lot B. She never wanted to develop that lot, always intended to sell it. Chairman Hennel explained that as the current owner it is your responsibility to maintain it.

C. Heinel explained the current building on lot B pre-existed any of our zoning laws. It is what is called a nonconforming use. It is allowed to exist in its current state, so long as no changes are made to it, with the property owner free to maintain it in its current form, and knowledge that the owner cannot enlarge it by more than 10%. She also restated that only one home may exist on the lot, so if a new one is proposed, that one would have to come down.

D. Schlansker asked if the current structure could be considered an accessory structure?

C. Heinel explained that the nonconforming use would end if any changes were made. Any changes made to it need to come under compliance. If it were deemed an accessory structure it would have to be compliant with all setbacks and other Town Codes.

D. Schlansker also noted there is a garage on the property that doesn't meet side setback codes. C. Heinel explained that the garage can stay as it currently stands if it's maintained. It too pre-exists zoning laws. If any changes are made to it, it has to conform.

B. Peterson asked what the wires were that the neighbor was talking about. R. Yager said when the tree blooms it covers the lines. She feels the trees provide a positive environmental impact.

G. Wicks asked if we know the size of the current vacant structure? D. Rabideau said its 27x28 s/f.

Chairman Hennel explained that as long as it's within Town Codes, it is within the new owner's right to build a new home as long as all setback requirements are met.

J. Febo asked what is the size home allowed on the lot? A. Briscoe replied that the maximum lot coverage is 35% of the total s/f, including the garage.

Chairman Hennel stated that while it is good to consider what can become of the lot, tonight they are here to consider the variances being applied for.

D. Schlansker confirmed that if someone is building a new residential house, are there landscaping requirements? C. Heinel stated that outside an HOA, there are no landscaping requirements.

D. Thompson asked if they should be concerned with the health threat if the vacant building is demolished? A. Briscoe explained that there is a full process to demolishing a building with precautions made for safety.

C. Heinel stated that if an inspection is done and a violation is determined to exist, it must be provided to any potential new owner. Typically, 30 days is granted to correct any deficiencies. If

the owner is working on it and goes over, there can be some leniencies. However, if progress has stopped, the owner would be cited, Code Enforcement would intervene, and the owner would need to appear in court. Every owner is responsible for maintaining their property.

Chairman Hennel closed the public hearing:

He explained to the owner that the property needs to be registered as a vacant building and must be open to inspection. The applicant agreed. As you remain owner of the lots, you must maintain them in accordance to Town Code. She asked if they can extend the time if demolition is cost prohibitive? C. Heinel said they could extend it one 30 day period to allow funding if necessary, if hardship to the applicant is shown. A. Briscoe clarified that demolition would only be necessary if it's deemed an unsafe structure. C. Heinel agreed that if it's unsafe, it can be demolished or repaired and maintained.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to adjust common lot line between two adjacent parcels owned by the applicant at 305 Wren Street and 304 Lark Street, Glenville, NY in the Town of Glenville, New York; and as identified on tax map 29.19-1-17 and 29.19-1-21

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville Section(s) 270: Request for variance of 14.4 feet for Lot A; and a variance of 35.6 feet for Lot B in regards to Section 270 requirements related to Lot Depth of no less than 150 feet

Request for 5,257 sq ft variance in regards to Section 270 requirements related to requirements for minimum lot size of no less than 15,000 sq feet

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 02/24/2020, 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:
No, request is for internal lot line adjustment within two parcels. Resulting lot on Lark St. will no longer span between two streets but instead be more in alignment with other nearby properties
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, neighborhood has previously defined small lots with average lot depth of 125'
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:

Lot depth variances where nearby lots are 125' in depth with proposed lot depths of 114 and 135 feet is not seen as substantial variance. However, proposed lot size variance of 5,257 sq ft on required 15,000 sq ft minimum is 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:
Overall impact to neighborhood which is comprised of similar size lots is seen to be minimal impact with resulting lots being entirely situated on either Wren Street or Lark Street. Owner also agrees to take steps to improve interior and exterior condition of structures to improve or remove.
5. Whether there has been any self-created difficulty. Finding of fact:
Yes, situation is self created, but that alone should not preclude the granting of this variance.

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

Conditions:

1. Ms. Kirkland (Owner) must register Lot B as Vacant with the Town of Glenville in conformance with Town Code §108-3 by March 6, 2020.
2. Ms. Kirkland shall open the exterior and interior portions of the premises of Lot B (304 Lark St.) for inspection by the Town Building Inspector by March 6, 2020.
3. While Ms. Kirkland remains the Owner of Lots A & B, Ms. Kirkland must maintain the premises in conformance with Town Code and the Building Codes of New York State or demolish by April 30, 2020 the structure at 304 Lark St, with potential for a one time 30 day extension if hardship to applicant is shown.

**Chairman Hennel noted that the Board will be voting on each variance separately, but that approval on both would be needed to pass.

MOTION:

(Lot depth)

Moved by: Chairman Hennel

Seconded by: J. Febo

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

NOES: 0

ABSENT: 0

MOTION:

(Lot size)

Moved by: Chairman Hennel

Seconded by: J. Febo

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

NOES: 0

ABSENT: 0

MOTION APPROVED

MOTION: To adjourn the February 24, 2020 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: D. Schlansker

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

NOES: 0

ABSENT: 0

MOTION APPROVED

Next agenda meeting: March 16, 2020

Next meeting: March 23, 2020

Submitted by,

Stenographer Date

ZBA Chairman Date

Town Clerk Date