

MEETING OF THE ZONING BOARD OF APPEALS

OF THE TOWN OF GLENVILLE

THE GLENVILLE MUNICIPAL CENTER

18 GLENRIDGE ROAD, GLENVILLE, NY 12302

Monday January 27, 2020

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

ABSENT: Dick Schlansker

ALSO ATTENDING: Code Enforcement: Arnold Briscoe, Mike Burns, Cathy Visco; Stenographer: Jen Vullo; Attorney: Courtney Heinel

Chairman Hennel called the meeting to order at 6:59 P.M.

MOTION: To accept the November 2019 minutes as amended.

MOVED BY: B. Kissinger

SECONDED: J. Febo

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

NOES: 0

ABSENT: 1 (Schlansker)

ABSTAIN: 0

MOTION CARRIED

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PUBLIC HEARING

Application of Stewart's Shops Corp., P.O. Box 435, Saratoga Springs, NY 12866, for a Use Variance in regard to the construction of a new convenient shop, located at 571 Sacandaga Road, Glenville, NY 12302, and are identified on the tax map as parcels # 21.3-2-2.1 & 21.3-2-1. The Applicant intends to combine a vacant parcel with their current parcel and create one parcel. Both properties are located in the Suburban Residential Zoning District.

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

270-15 SR Suburban Residential District. As per the listed uses in this section of the Code, convenient store is not an allowable use. The Applicant intends to demolish existing structure and reconstruct a new approximate 3,750 sq ft convenient store.

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

Sent to 5 neighboring property owners with no responses. This was referred to the County and was received back on 1/22/20. The County deferred it to local consideration.

Letters Received:

A letter was entered into the record

Included with application:

Appraisals

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

Chuck Marshall and Jim Gillespie, representing Stewart's Shops, were present. C. Marshall presented drawings of the proposed site, illustrating the current and proposed locations of the shop, gas pumps, septic system, wetlands, etc. He explained they hired a professional wetland scientist to analyze the site and show the impact the proposed project would have on the wetlands on the western side of the lot. No negative impact was found and they believe they can combine the two lots without any additional impact. They believe this to be a unique scenario, because if someone else came in and bought the adjacent lot alone, they wouldn't be able to do much with it due to its "L" shape and location of wetlands.

Researched approved uses for the lot and demonstrated why they do not generate a reasonable return.

- 1) Single family home: the land has an estimated value of \$40K, as stated by Conti Appraisal. Kodiak Construction gave an estimate to put a single family home on the site. When they compared that to the full market value as assessed by the Town of Glenville, they realized there would be a loss to the developer of \$232K.
- 2) Home occupation: using home as a place of business, they assumed a 10% use in home occupation. So, taking the \$232K loss shown above and adjusting for 10% use in home occupation, still results in a loss of \$188K.
- 3) Cost of installing a cemetery: typically, cemeteries are on much larger lots, a road would have to be brought in as well as more excavating and fill to make room for caskets at a cost of \$177K, not a demand for this use
- 4) Day care facility: assumed a 5000 s/f facility. Sought opinion of Saratoga YMCA which gave an estimated cost of \$170 per s/f plus site preparation, resulting in a \$1million investment
- 5) Church/synagogue/other religious institution: similar to daycare facility, plus room for parking. Not a huge demand for this either.
- 6) Personal wireless service facility: Using the \$40K for the land and an estimate from Inifigy Engineering, which owns approximately 5 wireless towers, provided a total cost of \$290K
- 7) Nonprofit recreational facility: land was gifted to Northern Rivers, not really big enough to develop a stand-alone facility, estimated cost of \$137K
- 8) Bed and Breakfast: Hilltop Construction gave an estimate for a duplex with similar number of bedrooms and garages, at a cost of \$697K plus the cost of the land. These are usually tied to destination that they don't feel Scotia provides.
- 9) Roadside produce stand: typically tied to an existing farm, not a stand-alone facility.

Chairman Hennel opened the public hearing:

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. No one in attendance spoke in favor of the application.

Opposed:

Joseph Budka, 807 Bolt Road, believes that Stewart's is owned as a nonconforming use – which means no ability to expand according to town codes. He believes this is not good for the neighbors or property values. He attended the last town meeting and heard they are planning to use 2.3 acres. He questions if they are planning to subdivide the land.

Chris Keatley, 556 Sacandaga Road, expressed concerns over traffic, noise, lighting, diesel pumps, and the effects on the neighborhood

Chairman Hennel solicited questions from the Board members. He noted that while the parcels are being combined, is there a plan to subdivide the lot? C. Marshall explained that the use variance is over 2 lots. The current Stewart's goes away, they combine lots, built a new one with gas pumps. The overall land used will be 2.3 acres, with 1.7 acres to remain undisturbed. As far as traffic, he explained they did an analysis of 'destination trips' vs. 'passby trips'. Currently there are approximately 65% 'passby trips', which are people driving by, and 35% destination trips, which are people leaving their home to go. They don't see an unfavorable increase in traffic as a result of new facility. He also explained that the current store has not benefitted from LED lighting, but that the new store would be able to, thus mitigating lighting issues.

J. Febo noted that they plan to build a mounted septic system vs. a conventional one. C. Marshall explained they had different septic systems analyzed and to reference Appendix F for the estimate from Darcy Construction for \$6200 mounted septic system.

B. Kissinger also noted in Appendix F a discrepancy in the numbers submitted. Hilltop Construction vs. Kodiak Construction provided vastly different numbers (28K vs 70K), but Stewart's is using the higher number to show it's not cost effective for other land uses. C. Marshall surmised that one construction company may have built in mobilization and site prep costs.

Chairman Hennel asked if there were current constraints on space to replace the septic system that currently exists. J. Gillespie said that with additional space they can implement an improved system that treats on site more efficiently. Chairman Hennel confirmed that the new building would be further back from the road. C. Marshall explained that the entrance would be moved, with one light currently proposed by the entrance. Chairman Hennel asked how old the current gas tanks are? C. Marshall stated that the existing split tanks were put in in 2012 and will remain. They are proposing to add diesel tanks. He also wanted to clarify that these are not high flow diesel tanks and are not for 18 wheelers to use. Chairman Hennel expressed his concern for nearby residents regarding delivery times. C. Marshall said the deliveries are made on the nonresidential side. J. Gillespie explained that they looked into deliveries around the back of the building, but eventually determined that with some interference of the septic system and the natural stream, it was best not to have deliveries made there. It might have too great an impact on the natural buffer.

J. Febo asked if they were doing more excavating? C. Marshall confirmed that they would be only excavating behind the current store and back, leaving as much natural as possible.

B. Peterson confirmed business hours as 5am-11pm. C. Marshall replied yes. B. Peterson asked about the canopy lights. C. Marshall explained that they go dark at closing, with the exception of one light over the delivery entrance that stays lit for one half hour before and after closing. All lights operate on a combination of timers and photocells. B. Peterson inquired how the parcel on the left was previously listed for sale, residential or commercial? He also noted that he thought the estimated value of a house on that lot was high. C. Marshall replied that he was unsure of MLS rules but thought it was listed as commercial. He asked the Board to reference Appendix B for estimated values.

J. Febo questioned the square footage being used vs. the entire parcel. C. Marshall calculated an estimate of 60x140 plus 120x120.

B. Kissinger asked what is the area being lit at night under the current canopy vs. what it would be under the new proposed canopy? C. Marshall calculated currently: 35x25; proposed: 106x26. B. Kissinger then asked if they were aware of any artifacts unearthed when they did the initial excavating. J. Gillespie replied that they did spot tests throughout the site and found no cultural resources, just old debris from construction and asphalt. C. Marshall added that according to the appropriate agencies, they would be required to hire someone to come in if anything was found. B. Kissinger inquired about the distance from the site to the nearest neighbor on the southern tip. C. Marshall replied they would be 90 feet to the property line. He also remarked they would re-landscape if anything was disturbed near the neighbors' property line.

J. Febo asked if a soil test was conducted? J. Gillespie said yes, when they had all the fill brought in.

B. Peterson inquired about the projected timeline when the company would break even on construction costs vs. profit. C. Marshall replied it would be a long time, but that they couldn't fix things the way it is currently zoned. It's a projected 15% increase in revenue from the store and gas over a \$1.5 million project.

B. Kissinger noted that the listing sale price for the land dropped to \$150K. Were there any offers closer to its estimated value of \$40K? C. Marshall noted that only half the land is usable, and he doesn't know if other offers were received.

Chairman Hennel closed the public hearing:

MOTION:

Whereas, the applicant having applied for a use variance for property located at 569 and 571 Sacandaga Road and as identified on tax map 21.3-2-2.1 and 21.3-2-1

And whereas, the property is zoned Suburban Residential

And the applicant wants to use the property for combining both parcels and rebuilding the convenient store on the resulting lot

A use not allowed in the area, and

Whereas, a public hearing was held on January 27, 2020 to consider the application,

Now therefore be it resolved that this application be approved because the applicant has shown that the applicable zoning regulations and restrictions caused unnecessary hardship for the following reasons:

1. Whether the applicant cannot realize a reasonable return from the property in question. Competent financial evidence has been presented:
Finding of fact: applicant has presented detailed financial information based upon a property appraisal as of June 2019 by Conti Appraisal & Consulting, LLC; a report detailing recent MLS property listings for 569 Sacandaga Road, as well as detailed summary listing allowable uses and the costs associated with each. Lot also contains a Federally Designated Wetland traversing the western boundary, limiting value and uses.
2. Whether the plight of the applicant is due to unique circumstances and does not apply to a substantial portion of the neighborhood or general conditions in the neighborhood. These unique circumstances are:
Finding of fact: Circumstances are unique in desire to combine properties and retain a single convenient store on the property. Surrounding properties are residential in nature. Applicant also lists properties lack of public sewer.
3. The use requested by this variance will not alter the essential character of the neighborhood as follows:
Findings of fact:
 - a. Surrounding issues include:
No change to makeup of nearby residential properties in the area of current convenient store location; potential improvements with proposed location of new building to be further setback from Ridge Road and Sacandaga Road with additional plantings and greenspace as buffer to neighbors
 - b. The proposed use will not create any special safety hazard: *upgrade to gas pump storage tanks & sanitation should actually reduce potential of hazards*
 - c. Traffic will not be a problem because applicant: *existing number of curb cuts used for ingress and egress are being maintained.*
4. The hardship claimed by the applicant was not self-created

Be it further resolved that the granting of the variance will be in harmony with the general purpose of the Zoning Ordinance of the Town of Glenville.

Conditions:

The following conditions are imposed for the purpose of minimizing any adverse impact on the neighborhood or the community:

1. *Building permit to be issued, and construction of planned convenient store to begin within 12 months of granting of this variance*
2. *ZBA defers final site plan review & approval to the Planning & Zoning Commission with special attention: a) to location and hours for receiving deliveries prior to 7am and after 9pm b) lighting design to not impact adjacent properties c) vegetative screening for 565 Sacandaga Rd d) consider design standards for store exterior to fit in to nearby residential properties*

3. *Applicant to physically combine both parcels into one parcel prior to issuance of building permit with no future subdivision on this parcel*

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

J. Febo asked for clarification of the square footage of the section of the parcel being used as well as how they will properly maintain it. C. Marshall explained that site plan approval means they will maintain the usable space and vegetative screening.

MOTION:

Moved by: Chairman Hennel

Seconded by: J. Febo

AYES: 2 (Hennel, Febo)

NOES: 2 (Peterson, Kissinger)

ABSENT: 1 (Schlansker)

MOTION DENIED

C. Marshall asked how long he has to wait to come back again before ZBA to apply for approval. C. Heinel said she will look into this and email him.

MOTION: To adjourn the January 27, 2020 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: B. Kissinger

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

NOES: 0

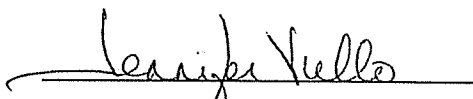
ABSENT: 1 (Schlansker)

MOTION APPROVED

Next agenda meeting: February 18, 2020

Next meeting: February 24, 2020

Submitted by,


Stenographer

Date

2/24/20

D.H.P.

ZBA Chairman

2/24/2020

Date

David C. Auld

Town Clerk

2/25/2020

Date

FINAL

APPROVED
Town of Glenville
Zoning Board of Appeals

D.H.P.
Chairperson

2/24/2020
Approval Date