

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday June 22, 2020**

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

ABSENT:

ALSO ATTENDING: Code Enforcement: Arnold Briscoe; Stenographer: Jen Vullo

ALSO ATTENDING VIRTUALLY: Attorney: Courtney Heinel, Jacob Heiner, David Ogawa, Dylan Walrath, Rachael and Terence Farrell, Lori McKenna, Matthew Florell

Chairman Hennel called the meeting to order at 7:03 P.M.

MOTION: To accept the May (June 1) 2020 minutes as amended.

MOVED BY: Chairman Hennel

SECONDED: B. Peterson

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

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION CARRIED

MOTION: To accept the June 2020 Agenda minutes as amended.

MOVED BY: Chairman Hennel

SECONDED: J. Febo

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

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION CARRIED

PUBLIC HEARING

Application of Jacob and Kathleen Heiner, 778 Washout Road, Glenville, NY 12302 for an Area Variance in regard to the construction of a 50ft x 60ft single story accessory structure to be used as a music studio, wood working shop, and storage building. This parcel is identified on the tax map as parcel# 13.-2-3, and is located within the Rural Agricultural Zoning District.

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

270 – 9 F- Accessory Structures in the RA Zoning District:

(2) All accessory structures 280 sq ft up to 1,200 sq ft in size must be located a minimum of 10 feet from side and rear property lines. Applicant is proposing to construct an accessory structure 3,000 sq ft in size. Maximum square footage of accessory structures allowed is 1200 sq ft. Applicant is seeking a variance of 1800 sq ft.

270 – 9 D- Height. No accessory building or structure shall exceed 15 feet in height in a Zoning district, unless the accessory structure is a roof mounted receive only antenna, or if the structure is used in association with a farm. Applicant is proposing to construct an accessory structure at the height of 24 feet 10 inches resulting in a mean height of 18 feet 10 inches. A variance of 3 feet 10 inches is being sought.

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

Sent to 10 neighboring property owners with several responses. This was not referred to the County.

Letters Received:

Pre-printed letter signed by neighbors in support of applicant:

David Ogawa – 658 Washout Rd

Richard Quick

Matthew Cater – 891 Washout Rd

James Durocher – 821 Washout Rd.

Jeremy Tricozzi – 706 Washout Rd.

Illegible name with no address

Chairman Hennel asked the applicant if he had any comment to share with the Board. Jake Heiner addressed the Board regarding some concerns. First, concerning insulation and energy requirements: he explained the proposed structure would be heated, with radiant flooring, with a boiler to the house, AC window units, fire retardant coverings: drywall on insulation. In terms of a living space: used for storage and a practice musical facility for himself. Floorplan included garage in front, music studio in back left, as well as workshop in back right. It would be a 3 stall garage. The music studio is for personal use, not lessons, for himself and family, as he has an extensive drum set. There would be no bathroom. He doesn't have a problem with a smaller pitch, but hasn't heard back from the architect on why it was designed to that height. He could downsize the overall building, but then it wouldn't meet his needs. He emphasized he has a lot

of equipment, extensive woodworking equipment and expensive hardwoods, and needs a workshop. If it was smaller in size then the outdoor lawn equipment would have to remain in the current sheds, which he was hoping to remove.

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:

David Ogawa – 658 Washout Rd – in favor of application, good neighbors, well kept property, positive step to replace old sheds with one new building, in favor of the arts also

Dylan Walrath – 277 Stagecoach Rd, Sharon Springs – owns the property at 840 Washout Rd – in favor of application, feels applicant has made visually pleasing changes to his property

Chairman Hennel solicited questions from the Board members.

D. Schlansker noted that in regards to the height of the structure, if the architect went to a 4 on 12 pitch instead of a 6 on 12, it won't affect the overall size but would lower the pitch. He feels there is no benefit to the additional height requested on current proposal, and lowering it eliminates the need for the height variance. J. Heiner stated he is not opposed to lowering the height. He doesn't know the rationale behind the 6 on 12 height and hasn't heard back from his architect. A. Briscoe noted that the architect's plans also don't specify if he will use trusses or stick frame rafters. He's very vague in the plans submitted. There are other discrepancies that would normally be handled through the building permit process.

Chairman Hennel stated that if you get the variances requested, there are still other items that need to be addressed to get the building permit. The application could be tabled until next month until the architect has been consulted. J. Heiner explained that he was told a letter would suffice explaining some of those issues, like snow load.

D. Schlansker asked if the timing is critical on this project, or could you wait until you talk to the architect? J. Heiner explained that he is currently getting bids.

Chairman Hennel noted that if the applicant changes the pitch to 4 on 12, the height variance wouldn't be necessary.

Chairman Hennel inquired with legal counsel if the Board could vote on one variance now and table the other one until further information is obtained. C. Heinel stated that the vote needs to be on the entire application. Tabling one piece doesn't follow procedure. Conditioning items is a better option.

J. Heiner noted that the application does say they would use trusses.

Chairman Hennel explained that if you amend the application to take the height variance out, the Board could vote. However, if you determine that you actually need the height variance, a whole new application would be needed. J. Heiner stated that he would take out the height variance, thus amending the application. He asked if the architect determines it has to be 6 on 12, do I have to reapply? A. Briscoe replied yes. C. Heinel replied yes.

The applicant requested to table the application until the next meeting.

MOTION TO TABLE APPLICATION:

Moved by: Chairman Hennel

Seconded by: J. Febo

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

NOES: 0

ABSENT: 0

MOTION TABLED

Application of Rachael Farrell, 19 Havenbrook Drive, Glenville, NY 12302, for an Area Variance in regard to the storage of a boat and work trailers on this property, and is identified as tax parcel # 39.6-2-29.111, and is located within Suburban Residential Zoning District.

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

270-7 K Yard Requirements- RV's, Campers, etc. within Residential Zoning Districts.

RV's, campers, popup campers, boats snowmobiles, all-terrain vehicles, and similar vehicles, as well as trailers for hauling such vehicles, are not permitted within any residential front yard unless enclosed within a garage, boathouse, or other structure that is in compliance with this chapter. Also, any such vehicles located in side or rear yards are to be parked on an existing driveway, or on an apron of concrete, brick, block, asphalt, crushed stone, or any other finished surface that prevents the growth of grass or weeds.

The applicant is seeking an area variance to be able to store a boat and work trailers in the constructed area in the front yard along roadway.

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

Sent to 30 neighboring property owners with one response. This was not referred to the County.

Letters Received:

Email: John and Brenda Rager - 16 Havenbrook Dr. – opposed application – area used for dumpsters containing commercial construction debris, nails and stones in road, area is on a bend so dangerous location, should be residential area only

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

Rachael Farrell explained the dumpster was for clearing out personal property within her home. The trailers are for their construction business. 95% of the time they are not there, but located on a site. The left of their home is the septic, the rear contains the leach field, and the right has a pool. This is the best location for their vehicles/trailers.

Terrence Farrell explained that due to COVID and the construction company being shut down, the trailers are parked there because they can't be on a job site. This is the first year they stored their boat there, in an effort to save money on storage costs. There are no construction

materials on this property. The driveway is a steep grade making it impossible to park trailers there.

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 when the Farrells purchased their home. R. Farrell replied 2006. He stated that Town Code specifically states that trailers, boats, and construction vehicles are not allowed to be parked in front yards.

B. Peterson asked if the boat could fit in the garage? R. Farrell stated no, it is a pontoon boat, so very big. There are no other options with the way the land is graded.

Chairman Hennel asked if the applicant is running a business out of their home? R. Farrell replied no. They don't store materials here. They use the address for mailings. She also noted that they own one trailer. Chairman Hennel references a picture dated today that shows 3 trailers (a boat and two trailers). T. Farrell explained that one is being sold and one is going to a job site.

J. Febo asked why build a gravel driveway if trailers are typically not parked there? R. Farrell explained they needed to have a place to store them overnight or between job sites. They felt this gravel area was safe for winter in regards to plowing. She reiterated that COVID shut them down for 10 weeks and they had no other place to put them.

Chairman Hennel closed the public hearing:

MOTION:

The applicant having applied for an area variance after having been denied a building permit to allow storage of boats and trailers in front yard at 19 Havenbrook Drive, Glenville and as identified on tax map 39.6-2-29.111 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 270-7K to allow for permission of storage of a boat and work trailers in the front yard of the property.

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 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(s). Finding of fact: Yes, boat and work trailers are highly visible in gravel area that has been constructed within neighborhood / residential area. Letters have been received from neighbors sharing

concerns with decrease in property values and types of material that have been stored within work trailers.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance(s). Finding of fact: Yes, there are some options for storing items within the attached house garage and/or expanding the garage area for inside storage, or storing vehicles offsite. Noted that the ability to store large items such as boat and/or work trailers may be limited.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: Yes, application is for complete relief of restriction related to storage of boats, trailers, and work trailers within the area known as front yard.
4. Whether the area variance(s) will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Finding of fact: Yes, based on site visit, and neighbor comments, the storage of large boat, trailers, and potentially work trailers will likely have an adverse effect on otherwise residential area.
5. Whether there has been any self-created difficulty. Finding of fact: Yes, the situation is self-created.

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

Note: the motion was made to deny the application, so a yes vote=denial.

MOTION:

Moved by: Chairman Hennel

Seconded by: J. Febo

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

NOES: 0

ABSENT: 0

MOTION DENIED

Application of Matthew T. Florell, 83 Skyway Drive, Glenville, NY 12302, for an Area Variance in regards to installation of new six-foot-high wood fence, and is identified as tax parcel #22.18-2-32 and is located within the Suburban Residential zoning district.

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

270- 52 C Residential uses.

(2) Fences on residential properties will not exceed four feet in height in the front yard, including alongside lot lines to the front of the front plane of the dwelling. Applicant is proposing to install a new six-foot-high wood fence in both the front yards and rear yard of the parcel. The property is a corner lot.

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

Sent to 54 neighboring property owners with several responses. This was not referred to the County.

Letters Received:

Opposed:

Lori McKenna – 3 Dover Place – putting up such a large fence affects the gateway to the neighborhood, 6' in the front yard is very distracting, if granting approval please mandate a professional survey of the lot so as not to encroach on the ROW or sewer lines. She noted that she never received the letter her neighbors did.

In Favor (pre-form letter):

Linda Pagano – 85 Skyway Drive

Lori DeFonce – 87 Skyway Drive

Kelly/Terence Plunket – 88 Skyway Drive

Garth Riccio – 89 Skyway Drive

Anthony Cianfaram – 91 Skyway Drive

Edward Piotrowski – 92 Skyway Drive

Rostislav Kusnezou – 93 Skyway Drive

Mary Adis – 96 Skyway Drive

Sarah Whitefield – 95 Skyway Drive

David/Dawn Bielawski – 99 Skyway Drive

Michael Schadewald – 100 Skyway Drive

Anthony Moro – 101 Skyway Drive

Robert Gerasia Jr. – 102 Skyway Drive

Morgan Masaitis – 104 Skyway Drive

Anthony Domonico – 105 Skyway Drive

Christina/Daniel Harrigan – 106 Skyway Dr.

Frederick Glaser – 107 Skyway Drive

Carolyn Glaser – 107 Skyway Drive

Katie/Matt Walters – 6 Dover Place

Maureen Eller – 4 Dover Place

Chairman Hennel asked the applicant if he had any comment to share with the Board. Matthew Florell emphasized that he has mass support from many of his neighbors. He has provided before/after pictures of how he has improved the look of his property. He acknowledges that his house is seen by everyone entering the neighborhood, and as such, has done a great deal of work to make the property pleasing. He did provide Ms. McKenna the same letter as her neighbors. He can't help if she never received it.

Chairman Hennel opened the public hearing:

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

Lori McKenna – 3 Dover Place – explained that she is opposed to the fence. Her side yard is M. Florell's back yard, so she would be impacted by this fence. She stated that M. Florell is a great neighbor. Her objection is to the 6' fence. Her main concern is with the 6' fence on the Dover Dr. side of the yard. She explained that yards are mostly open in this neighborhood. The applicant already has screening with trees and shrubs as well as a shed. She worries about what this would do to the value of her home. She is concerned with safety and obstructed views. She

emphasized it is not about Mr. Florell, but the aesthetics of the neighborhood. If it is approved, she noted that a professional survey must be done with sewer lines noted.

Chairman Hennel solicited questions from the Board members. B. Peterson clarified the property location with adjacent roads. He noted that out of 18 neighbors in favor, most will not be affected by the fence due to their location. Those on Dover Place are more affected. He asked how long has the applicant lived at this address? M. Florell stated he purchased the property in 2013. B. Peterson also asked if 3 Dover Place is a condo or single family home? L. McKenna mentioned she owns a single family home, not a condo.

Chairman Hennel referred to the proposed fence in the front yard, noting the applicant has two front yards. He asked the applicant if he considered changing the section of the fence in the front yard facing Dover Place to a 4' fence? He could amend his application to only include the portion of the lot facing Skyway Dr. M. Florell stated that to gain the privacy he wants he needs the 6' fence. He explained that most people with side lots also have back yards. He only has 5' behind his house. If he had a back yard, he could consider a 4' fence on the Dover Place side. He feels his only usable property is on the Dover Place side. He is trying to get the maximum private area he can.

Chairman Hennel asked if the arborvitaes are staying, and are they in the ROW? Will the fence be located behind or in front of the arborvitaes? M. Florell stated the arborvitaes were originally supposed to be temporary but he anticipates keeping them. They are bordering the ROW and would be outside the fence.

Chairman Hennel noted there was no letter from 81 Skyway. He asked if M. Florell provided a letter to Lunkes? M. Florell explained that the husband is deceased, the wife is hospitalized, but he did provide a letter. He did not go door to door due to COVID.

Chairman Hennel reiterated that the applicant wants a fence in the front yard facing Dover, and a fence in the front yard facing Skyway. He explained that he could put a 6' fence from the front edge of the house to Skyway, along the back edge of the property line up until the edge of the house with Dover, and the rest could be 4' without any variances.

D. Schlansker noted that Google Street view shows deciduous trees at Dover and Skyway. Did he cut down those trees which formerly provided privacy? M. Florell explained that he did remove vegetation previously in the yard. They were close to the road, and during winter salt and snow destroyed them. Those trees obstructed more of the intersection than the proposed fence would. They were closer to the corner, overgrown and scraggily compared to a well-manicured proposed fence.

J. Febo estimated the property to be approximately 160 ft. long. Envisioning a 160 ft. compound becomes uninviting when entering the neighborhood. He understands the applicant wants some yard, and doesn't see a problem with the left side of the yard. However, the right side creates too much of a compound look.

Chairman Hennel asked the applicant if he would consider an alternative design? M. Florell asked how they are calculating 160 ft.? Chairman Hennel noted the red line on the diagram running the length of the property. M. Florell stated that the shape of the property is not conducive to a compound like look. He feels he has a difficult location that minimizes his lot. He

noted that his whole property is only 9000 ft. Only 1200 ft is private if he followed the Town code. He feels that at any given time only 5-6 neighbors can see his lot.

Chairman Hennel noted that his house pre-dates the Dover Place homes. The applicant purchased his house with the Dover Place homes already there.

J. Febo calculated that the homeowner would have 2000 s/f of usable space if he eliminated the 6' fence on the Dover Place side and just installed the 6' on the Skyway Drive side.

Chairman Hennel asked the applicant if he wished to amend his application to only include the 6' fence on the Skyway Dr. side or have the Board vote as stated? M. Florell said he would defer to the Board. He would prefer to keep the application as stated, but would take what he can get. Chairman Hennel explained it is the applicant's choice on how the Board would vote (as is or amended), but based on the questions asked by the Board, it shows he may not have the votes to grant the 6' fence in both locations. M. Florell asked if he doesn't amend the application, then it's vote no for everything or yes for everything? Chairman Hennel stated yes.

L. McKenna stated she would support the 6' fence on the Skyway Rd. side.

Chairman Hennel explained to the applicant that there are three options: vote on application as is, amend the application, table the application.

M. Florell stated he would amend the application to change the fence on the Dover side to 4', and keep the shed side at 6'.

J. Febo clarified that the fence cannot break the right plane of the house.

Chairman Hennel noted that the applicant is amending his application so there is only a variance for the front yard on the Skyway Dr. side.

Chairman Hennel closed the public hearing:

MOTION:

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville Section(s) 270-52 C, (2): The permitted size/dimensions for a fence is 4' tall. The proposed size/dimension is 6' tall. A variance is requested for 2' in height.

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 June 22, 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:

Even though several residents along Skyway Dr have supported Mr. Florell's application, this application must also consider the neighbors on Dover Place, as they will be the ones viewing

this fence as they turn the corner to enter their road. Therefore: Yes, an undesirable change will be produced in the character of the neighborhood. The town has always considered itself a community of neighbors, not fences. A 6' tall fence could block a turning view on to Dover Place, even though the corner piece is proposed to be at roughly a 45 degree angle. It will not be pleasant to view from the street due to the height. It will also keep the (applicant) from being part of the community (passerbyers).

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:

Yes, There are alternatives, such as an invisible fence, dog training, or a 6' section of fence along the back yard property line only, and then tapering down at an area extending from the front plane(s) of the house as a 4' tall fence on the remainder of the property.

A 6' fence might be permitted on the left side of the house, where there is no potential road blockage. The fence could be behind the arborvitaes, provided they are maintained.

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

Yes, the height of the fence is 50% more than what is allowable by the town,

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, there would be no adverse impact on the physical or environmental conditions of the neighborhood or community,

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

Even though the property is a corner lot by design, and the yard is more visible than a standard front facing only lot, the choice to add the taller fence is self-created

Now, therefore be it resolved that this application for an area variance be denied, as applied for, including the 6' fence being permitted on the left side of the property, behind the arborvitaes, as it is viewed from Skyway Dr

Note: the motion was made to deny the application, so a yes vote=denial.

MOTION:

Moved by: B. Peterson

Seconded by: Chairman Hennel

AYES: 2 (Hennel, Peterson)

NOES: 3 (Schlansker, Kissinger, Febo)

ABSENT: 0

MOTION OF DENIAL FAILED

Chairman Hennel asked A. Briscoe and C. Heinel if someone could then make a motion to accept the application since the denial failed? Should we have a second motion for approval? C. Heinel responded yes. Since no one had written a motion to approve the application, the vote should be tabled until next month. Chairman Hennel noted that if the motion was for approval there would have been conditions. He would recommend the applicant submit new amended drawings, showing the 6' portion of the fence on the Skyway side only. He also encouraged showing the arborvitaes on the drawing.

MOTION TO TABLE:

Moved by: Chairman Hennel

Seconded by: B. Kissinger

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

NOES: 0

ABSENT: 0

MOTION TO TABLE APPROVED

C. Heinel stated that after review, the application was voted on, and if the motion of denial is denied, it was inversely approved without conditions. The vote on the amended application was thus approved. She will look further into this and get back to the Board. Chairman Hennel thought he remembered during a training session that if a denial failed, since no one made a motion to grant it, by factor of that it didn't pass.

*Note (After meeting per Courtney Heinel): Having discussed the matter with Earl Redding we both agree that the initial plan for the applicant to come back for an approval vote is the appropriate course of action. We base this decision on the fact that the board did not vote to approve anything in the actual motion and therefore, that motion still needs to occur. In the future we should be prepared in a situation like this to make a motion to approve, immediately following the denial of a motion to deny.

MOTION: To adjourn the June 22, 2020 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: B. Kissinger

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

NOES: 0

ABSENT: 0

MOTION APPROVED

Next agenda meeting: July 20, 2020

Next meeting: July 27, 2020

Submitted by,

Stenographer

Date

ZBA Chairman

Date

Town Clerk

Date

FINAL