

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

**Monday July 27, 2020**

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

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

**ALSO ATTENDING VIRTUALLY:** Attorney: Courtney Heinel; Mike Burns, Melissa Cherubino, Raymond Collar, Matthew Florell, Christopher Colin, Dr. Singh, Joe Bianchine, Robert Van Flue

**Chairman Hennel called the meeting to order 7:02 pm.**

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

**MOVED BY:** B. Kissinger

**SECONDED:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

**ABSTAIN:** 0

**MOTION CARRIED**

**MOTION:** To accept the July 2020 Agenda minutes as amended.

**MOVED BY:** B. Kissinger

**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.

This application was tabled from the last meeting.

Chairman Hennel asked the applicant if he had any comment to share with the Board. J. Heiner stated that he went to the architect, who did research regarding the height/pitch, and they decided not to pursue the 4 on 12 pitch. Doing so would bring the height down to 14-15 ft, would not fit a 5<sup>th</sup> wheel, would be more costly, and aesthetically would not be pleasing. They have elected to stay with the original application, and the 6 on 12 pitch. Chairman Hennel asked if the original design would fit a 5<sup>th</sup> wheel? J. Heiner responded that he believes it will fit on the left side.

### **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. Peterson stated that the maximum NYS allowable height for a travel trailer is 13'5". That would fit in a 4 on 12 structure. J. Heiner replied that it would be a tight fit.

### **Chairman Hennel closed the public hearing:**

### **MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 50ft x 60ft single story structure at 778 Washout Road 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) 270-9F Accessory Structures in the Rural Agricultural Zoning District: 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 AND 270-9D 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 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 July 27, 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. The structure is well hidden by foliage on the property and the lot is large. This structure will be replacing 3 structures that are outdated and would ultimately add to the character of the property and the neighborhood.
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. The applicant could lower the roof height and use a shorter structure for their use — Eliminating the need for variance to 270-9D. In regards to the overall size and sq ft of the structure, the applicant would not be able to achieve their goals without a variance to 270-9F.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: Yes. The height variance being requested is over 20% of the allowed height AND is 150% of the allowed sq ft.
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. It would only add to the physical aesthetics of the current property in place of the older structures on the property, it would neither create an environmental impact.
5. Whether there has been any self-created difficulty. Finding of fact: Yes. The choice to build an accessory structure for personal use is a self-created difficulty, especially considering the size.

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

J. Heiner requested the exterior of the structure be a red barn style.

**Conditions:**

1. The roofing and siding materials will complement the existing house in color and style i.e vinyl siding in a complementary color.
2. The proposed structure will only be for storage of personal property and equipment, not for business use.
3. The proposed structure will not be used as a residence.

**MOTION:**

**(accessory structures)**

**Moved by:** J. Febo

**Seconded by:** B. Kissinger

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

**NOES:** 0

**ABSENT:** 0

**MOTION ACCEPTED**

**MOTION:**

**(height)**

**Moved by:** J. Febo

**Seconded by:** B. Kissinger

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

**NOES:** 1 (Schlansker)

**ABSENT:** 0

**MOTION ACCEPTED**

**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.

This application was tabled from the last meeting.

Chairman Hennel explained that at last month's meeting a motion for denial was made and did not pass. Therefore, the Board will reopen the public hearing for a motion to accept. We did receive an amended drawing from the applicant, with clarification of distances.

Chairman Hennel asked the applicant if he had any comment to share with the Board. M. Florell explained that he reissued an amended site plan, where he removed the variance for the Dover Pl. side, and changed the height to 4' over there. He agreed to maintain the arborvitaes, but would still request a 6' fence on the Skyway Dr. (shed) side.

**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 referred to the diagram and noted that he is concerned that the fence requested is still significantly into the front yard, when looking at how far out the front porch and walkway come. If it could be moved back 12' so it is more in line with the front plane of the walkway, this would be a better option. He feels it mitigates how much the neighbors can see. Would the applicant consider this? M. Florell explained that he is trying to give the dog enough room. He has no backyard and feels he has already agreed to lower the fence request for the Dover Pl. side. He is trying to maintain privacy on the Skyway Dr. side. He feels it will not be an eyesore and will be well maintained. He also noted that he preemptively gathered support from his community for this project. Out of 27 neighbors that would drive by his property, 20 have given their approval.

D. Schlansker noted that this is an unusual lot. The applicant has already made a concession and is trying to work with the Board.

J. Febo would like to offer a condition that the applicant preserve the arborvitaes. Chairman Hennel noted the arborvitaes are in the ROW. If Town work has to be done there, is he allowed to have plantings there? A. Briscoe explained that technically DPW isn't as concerned with plantings, but are more concerned with structures in the ROW. If work needed to be done, and the arborvitaes needed to be removed, the Town would not be responsible for replacing them. The applicant would have to replant them.

**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, on the left side only, of the property, while facing it from Skyway. 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 July 27, 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: As long as the 6' tall section of fence, to the left of the property while facing the house from Skyway Dr, is hidden from view by the current arborvitaes, then no, an undesirable change will not occur.
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: The layout of the property does not give the homeowner any practical use of the back yard. The right side of the property is technically also considered the front of the property, being that it is a corner lot. The left side of the property is really the only usable, private section of the yard. Making the left side of the property a bit secured is the only alternative for privacy.
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, although the unique circumstance of the lot layout may override those dimension restrictions.
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, as long as the arborvitaes remain in place, and remain maintained.
5. Whether there has been any self-created difficulty. Finding of fact: the property is a corner lot by design, and the yard is more visible than a standard front facing only lot, By not having a true back yard, the homeowner is somewhat forced to make their outdoor living space, the left side yard. This was the property layout at the time of purchase, thus not making this a self-created difficulty.

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

**Conditions:** The arborvitaes remain groomed, maintained, and replaced if necessary.

**MOTION:**

**Moved by:** B. Peterson

**Seconded by:** J. Febo

**AYES:** 4 (Schlansker, Kissinger, Peterson, Febo)

**NOES:** 1 (Hennel)

**ABSENT:** 0

**MOTION ACCEPTED**

**Application of Christopher Colin, 437 Vley Road, Glenville, NY 12302**, for an Area Variance in regard to the proposed installation of a 24 ft round above ground pool in the front yard, and is identified as tax parcel #29.11-3-10 and is located within the Suburban Residential Zoning District.

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

**270 – 54 A Private Swimming Pools- (2)-**Swimming pools will not be permitted in front yards.

It has been determined that the proposed location of the pool would be located in the front yard of the parcel.

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

Sent to 32 neighboring property owners with one response. This was not referred to the County.

**Letters Received:**

6/14/20 Tracy Lotan, 435 Vley Rd

Chairman Hennel asked the applicant if he had any comment to share with the Board. C. Colin had no additional information to add at this time.

**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 the applicant if he removed an old pool? C. Colin replied that the previous owner had the pool removed before he bought the property. Chairman Hennel then confirmed the distance of 56' from Sacandaga Rd? C. Colin replied yes. Chairman Hennel then asked what type of fence will he have? C. Colin answered that a 4' chain link fence already exists, covering the rear of the property. Chairman Hennel inquired if the applicant would give any thought to screening along the fence on the Sacandaga Rd. side? C. Colin said he was thinking of possibly planting arborvitaes down the back side and maybe some other types in the future. Chairman Hennel explained to the applicant that front yard fences can only be 4' in height. If he intends to install anything higher, he would have to come back before the Board. C. Colin agreed to this.

J. Febo asked the applicant when he intends to install the screening? He feels that when driving by, passing a pool in a front yard is a different look for that area. Is it possible to plant vegetation along the rear fence within 90 days? C. Colin asked how far the Board was suggesting? J. Febo replied at least the section from the drywell to the property line at 435 Vley Rd. C. Colin asked the Board to draw a dotted line on the map provided where they would like the screening installed, and then he would agree to do it.

A. Briscoe mentioned that once a pool permit is obtained, you have 90 days to complete installation. Chairman Hennel noted that he would like to see vegetation installed within that same 90 days. C. Colin agreed to this.

B. Peterson asked why he is choosing to put the pool behind the garage instead of off the deck of the house? C. Colin explained that the septic tank is located off the back porch of the house, and there isn't enough distance from the drywell to put a pool there.

**Chairman Hennel closed the public hearing:**

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 24' diameter above ground swimming pool in an area designated as the 'front yard' of the property at 437 Vley Rd. in the Town of Glenville, New York; and as identified as tax id #29.11-3-10 and

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville Section(s) **270 – 54 A Private Swimming Pools- (2)-**Swimming pools will not be permitted in front yards. As this property spans from Vley Rd. to Sacandaga Rd., the parcel is deemed to have two areas as designated front yards.

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 July 27, 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, yard facing Sacandaga Road to have vegetative screening to shield view from passing traffic and applicant has agreed to contingency to maintain vegetative screening to block view from the road as well as the neighboring parcel.
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 septic field and other structures, location of pool on uniquely shaped lot would likely necessitate locating in the yard facing Sacandaga Rd. Had parcel not



fronted both roads this area would likely be considered back yard based on entrance doors to home and driveway location.

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 of pools not being allowed in front yard, but alone should not preclude the granting of the variance.
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, based on vegetative screening, location of garage, pool location is not seemed to have an adverse effect on the neighborhood.
5. Whether there has been any self-created difficulty. Finding of fact:  
Yes, situation is self-created, but alone should not preclude granting of the variance.

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

Conditions:

1. Area variance granted only for round above ground pool not exceeding 24' in diameter to be located based on drawing provided which specifies no closer than 56' from edge of Sacandaga Rd.
2. Applicant agrees to add and maintain vegetative screening to reduce view of pool from traffic along a portion of the property along Sacandaga Rd. within 90 days.

**MOTION:**

**Moved by:** Chairman Hennel

**Seconded by:** B. Kissinger

**AYES:** 4 (Hennel, Schlansker, Kissinger, Febo)

**NOES:** 1 (Peterson)

**ABSENT:** 0

**MOTION ACCEPTED**

**Application of Darren & Sharon LaBombard, 21 Paradowski Road, Glenville, NY 12302**, for an Area Variance in regard to the proposed installation of 26 feet of six-foot-high fencing, and is identified as tax parcel #16.5-1-3 and is located within the Suburban Residential zoning district. In accordance with the Codes of Glenville, the following area variance is being requested.

**270 – 52 C Residential Uses.** 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 41 neighboring property owners with several responses. This was not referred to the County.

**Letters Received:**

Colleen and Glen Westphal – 11 Tryon St

2 Neighbors at 19 Paradowski Rd

Chairman Hennel asked the applicant if he had any comment to share with the Board. Applicant was not online.

**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 stated that it appears that there is already a fence on the back property line and along the side property line. The applicant is looking to close in the existing 6' fence along the front. A. Briscoe explained there is already a 6' fence along the back and side, in which approval was obtained many years ago. He is looking to close in that side. Chairman Hennel noted that it looks to includes a gate closure. A. Briscoe noted that the applicant did have smaller arborvitaes (4-5' tall) which had to be removed when the septic was replaced. He also noted that the applicant stated he would not be able to log in via computer to the meeting but would try to call in.

J. Febo stated that the drawing looks like he wants to install a free-standing fence.

A. Briscoe noted there is also a pool in the yard.

Chairman Hennel asked if we can proceed without the applicant online?

J. Febo expressed concern with the maintenance of plantings and general upkeep. He would almost prefer a continuation of the cedar fence he already has, but it's the general upkeep that concerns him more.

Chairman Hennel stated he preferred the look of what the applicant is proposing, solid with lattice.

D. Schlansker feels the fence looks nice without the plants.

B. Kissinger was concerned with putting a condition in about maintaining plants on the fence. Who would check on and enforce maintenance of them?

Chairman Hennel offered the Board should vote on the 6' fence and leave the plantings out.

B. Peterson said they could include a general condition to maintain any plantings.

**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 July 27, 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: Although the property is a corner lot, the current large vegetation keeps most of the yard on Lynn Dr., secluded. Having a 6' tall fence extending from the back corner of the house, 26' towards Lynn Dr., will not change the character of the neighborhood, or the corner.

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: Other than planting new arborvitaes, which may take years to mature and fill in, installing a fence would be the quickest fix to adding privacy to the property

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, yet it is only one straight line of fencing, not further than the front plane of the house facing Paradowski, and connecting to the existing tree line on Lynn Dr.

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. It is set back from Paradowski to the front plane of the house, thus not making it obtrusive.

5. Whether there has been any self-created difficulty. Finding of fact: No, the property, by nature, is a corner lot, thus making it more visible than a standard front only facing lot. Now, therefore be it resolved that this application for an area variance be granted.

Conditions:

1. The plant life be maintained - upkeep/trimmed/replaced as needed.

2. The fence is built as shown by the provided drawing

**MOTION:**

**Moved by:** B. Peterson

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

**MOTION ACCEPTED**

**Application of Dr. Karamdeep Singh, 7 Cinnamon Lane, Clifton Park, NY 12065**, for an Area Variance in regard to proposed construction of a parking lot at **170 Saratoga Road, Glenville, NY 12302**, 10' from the Right Of Way for redevelopment of a corner property, and is identified as tax parcel #22.15-3-21 and is located within the Professional Residential Zoning District.

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

**270 – 73 C.** Location of parking areas and spaces. **(3)** All parking lots/areas associated with nonresidential uses and multifamily uses will be located no closer than 25 feet to any street Right Of Way, nor closer than 10 feet to the rear or side property lines.

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

Sent to 40 neighboring property owners with several responses. This was referred to the County. A. Briscoe stated the County referred to NYSDOT and conditionally approved, with DOT's approval of commercial curb cut and a detailed landscape plan showing type and size of plot material to be installed.

**Letters Received:**

Opposed:

Personal letters from: June Campesi/Jessica and David Jeannette – 4 Lincoln Dr.

Sandra Ruggiero – 5 Lincoln Dr.

Joan Rogers – 9 Lincoln Dr.

Joey & Ashley Benincasa – 8 Lincoln Dr.

Hand written letter signed by neighbors:

Joan Rogers – 9 Lincoln Dr.

Alesha Rymski – 3 Lincoln Dr.

Joey & Ashley Benincasa – 8 Lincoln Dr.

Harold G. ? – 11 Lincoln Dr.

Paula Pereyra – 7 Lincoln Dr.

Dennis Pajak – 17 Lincoln Dr.

Jessica Jeannette – 4 Lincoln Dr.

Krista Sutton – 17 Lincoln Dr.

Sandra Ruggiero – 5 Lincoln Dr.

John H. ? – 13 Lincoln Dr.

Suzanne – 16 Lincoln Dr.

David Jeannette – 4 Lincoln Dr.

Daniel Miller – 12 Lincoln Dr.

Neighbor – 174 Saratoga Rd.

**Included with application:**

photos

Chairman Hennel asked the applicant if he had any comment to share with the Board. Dr. Singh introduced Joe Bianchine, ABD Engineers, as his representative. J. Bianchine explained that Dr. Singh has operated a dental business at this location for some time. A fire last December, which did significant damage to the house, created the current situation. They can't repair it, so have chosen to build a new structure. After reviewing many options, they chose the one that requires only 1 variance. He noted that existing parking is located in the ROW. They are looking to relocate the parking lot to a better location, are proposing new landscaping, a solid fence between this property and 4 Lincoln Dr. He believes the Planning Board has already made a recommendation for approval. Dr. Singh then explained that they have been going through this process for 7 months. This has been a hardship to him. He bought the existing practice with the intention of building a new structure. The fire set him back. He can't provide services to his patients. It is difficult for a single practice owner to survive. He realized the neighbors are against this project, but believes he is acting in what is legally allowed by the zoning.

**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: none

Opposed: Joey Benincasa – 8 Lincoln Dr., stated he is actually a patient of Dr. Singh's. He feels this project would have a negative impact on the neighborhood, is concerned for the safety of the children, and noted that Dr. Singh is practicing and seeing patients at an adjoining place. Jessica Jeannette – 4 Lincoln Dr., would like it noted that she is unsure the property line on the plans is correct. She also is concerned about the snow removal plan, which would back up to her driveway and block her view pulling in and out.

\*Chairman Hennel noted that ZBA is here to deal with the variance request. If she is concerned with snow removal, he suggests she proceed to the PZC.

\* Mike Burns stated they have been around many derivations of this project. He restated that the size of the buildings is a direct correlation to the number of parking spaces needed. He noted that the applicant is proposing to build what is allowed by code, with the exception of the setback variance. He suggested a possible rearrangement of the buildings on the lot, with parking in the back, but alluded there were reasons why the applicant didn't want that.

Chairman Hennel solicited questions from the Board members. He stated that they are looking at 8400 total s/f of proposed building. He doesn't see any visuals of what's being proposed. J. Bianchine commented that both buildings will look more residential than typical office buildings. M. Burns stated that visuals were requested and went unanswered from his point of contact, Dave. J. Bianchine explained that Dave was in a motorcycle accident and has been in the hospital.

D. Schlansker asked how long has this property been zoned this way? A. Briscoe estimated since before 2001. D. Schlansker then asked if entryways are allowable in and out of the site? A. Briscoe explained there are concerns from Schenectady County, NYS, and the Town with regard to Rt. 50 and the Lincoln Dr. entrance. He also stated that because this is a new construction, they need new approvals. D. Schlansker stated that the building construction density on a site this size is what is forcing the number of parking spaces and why the codes can't be met. The building is too large for this size lot.

Chairman Hennel commented that the number of parking spaces is based on the use and size of the buildings. If you reduce the size of the building, you may not need the variance.

J. Febo asked what the two story mixed use building would be used for? J. Bianchine said, the top floor is a residential apartment and the bottom floor would either be residential or office space. J. Febo explained that if that's true, depending upon usage, that would change the calculation for the number of parking spaces needed. You may need more spaces, and thus another variance.

Dr. Singh stated that the required parking was calculated at 26 needed, and they have 30, which is more than enough. J. Bianchine stated the required parking is 26, they have 27. That included the ground floor be considered a professional office space. B. Kissinger clarified that that's assuming only 1 residential unit. Chairman Hennel said if there is the possibility of 2 residential units, then you would need more spaces, but that will be determined by PZC.

Chairman Hennel asked why the proposed building has been moved back? If it were kept forward it might be less of an intrusion on the residential area. J. Bianchine explained they could move it forward, it's just typically located further back. The concept of stacking was discussed.

J. Febo proposes pulling it away from the residences and closer to Route 50, where it was better designed for this purpose.

M. Burns clarified that J. Bianchine is correct in that moving it closer is a bad design. Stacking on that road can be very difficult. PZC will look at all this.

J. Febo asked if a traffic study had been done? M. Burns stated that J. Bianchine has provided some information relevant to that. J. Bianchine said there was only a nominal increase in traffic, spread out during the day. J. Febo stated it's important to weigh what affect traffic will have on that street. He understands it is zoned for this use, but you are now entering and exiting almost across from a residence. He would like to formally request a traffic study.

Chairman Hennel stated that because of the number of spaces required he would rather the Board not vote without visuals and a traffic study. He would like to make a motion to table the application until those two items are received. He also asked if the debris on the site had been cleared. Dr. Singh said he was hoping when the building was demolished everything would be removed, meaning all debris. He also stated that he had hired people to do the grass.

Chairman Hennel emphasized that the applicant is asking for something bigger than what is allowed. If they were willing to downsize the buildings, they might not need the variance. Dr. Singh then requested that J. Bianchine speak for him now. J. Bianchine stated that they are proposing parking to be 32' off Lincoln Dr. It is an improvement from what's there now.

Chairman Hennel gave the applicant the option to table the application or vote tonight based on what's been presented.

Arnold Briscoe explained that the Building Department and Code Enforcement reached out several times with notices regarding maintenance of the property, with no responses. The applicant says he wants to move forward, but it appears the applicant can't maintain the property now. He stated that while the Town is sorry to hear about David's accident, it is the applicant's responsibility to provide the materials needed to proceed. He should have reached out and let the Town know about the accident and perhaps given a new point of contact. He emphasized it is not the Town's fault the project is delayed. Dr. Singh commented that he can't have a bad relationship with the Town, so he has appointed his office manager full time to answer questions about the care of the property.

The applicant has requested to table the application until further notice. Chairman Hennel noted that the applicant has four weeks to gather the materials requested. He suggested the applicant clean up the property to show the Town they are ready to move forward.

**Chairman Hennel closed the public hearing:**

**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 Robert Van Flue, 2042 Waters Road, Glenville, NY 12302, for an Area Variance in regard to the proposed construction of a 30ft x 32ft accessory structure in the front**

yard. This parcel is identified on the tax map as parcel# 6.-2-12.2 and is located in the Rural Residential/Agricultural Zoning District.

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

**270 – 9 C. Location.** No permitted accessory use or building shall be located in any front yard.

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

Sent to 7 neighboring property owners with several responses. This was not referred to the County.

**Letters Received:**

In Favor:

Joseph Berman, 2134 Waters Rd.

Angela Ryan, 2013 Waters Rd.

Todd Plemenik, 2239 Waters Rd

Pam & Roy Matthews, 1255 Waters Rd.

Dale Olsen, 2495 Waters Rd.

Jill Morlay, 2495 Waters Rd.

Dean & Barbara Riggi, 2470 Waters Rd.

Neighbor, 2228 Waters Rd.

Carol DeJason, 1867 Waters Rd.

2 Neighbors, 1434 Waters Rd.

Chairman Hennel asked the applicant if he had any comment to share with the Board. R. Van Flue referred to the diagram. He noted the garage is in an area that is actually 3' higher than it appears. He explained that the reason for this project is he is selling his parent's home and needs a place to store their things.

**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 commented that the project looks to be minimally visible from the road. He asked if the car parked off to the side is where the garage would go? The applicant replied yes.



J. Febo questioned the aesthetics for the garage? Chairman Hennel noted the application states it will match the home.

Chairman Hennel explained that the structure is for storage of personal property only, not to be used as a business or a residence? The applicant agreed.

**Chairman Hennel closed the public hearing:**

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 30' by 32' detached garage at 2042 Waters Road 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. Location. No accessory structure shall be located in any front yard 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 July 27, 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. The structure is well hidden by foliage on the property and the lot is large in size.
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. The lot would not allow for this structure to be placed in the back or side yard due to wetlands and dense woods on the property.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: No. Although no accessory structures can be located in the front yard, the relative magnitude of this variance in regards to the lot size and layout of the lot is minimal.
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. The garage would allow for additional storage on the property, ultimately allowing the owner to store items inside that would otherwise be in the elements. The garage will be located no closer than 113' from Waters Road as noted on the drawing with the application.
5. Whether there has been any self-created difficulty. Finding of fact: Yes. The choice to build an accessory structure for personal use in a front yard is a self-created difficulty.

However, in this case in particular, the structure of the lot does not allow for additional storage to be added within a reasonable cost.

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

Conditions:

1. The roofing and siding materials will complement the existing house in color and style. i.e vinyl siding in a complimentary color to the house.
2. The proposed structure will only be for storage of personal property and equipment, not for business use.
3. The proposed structure will not be used as a residence.

**MOTION:**

**Moved by:** J. Febo

**Seconded by:** Chairman Hennel

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

**NOES:** 0

**ABSENT:** 0

**MOTION ACCEPTED**

**Application of Dean Coirin, 555 Swaggertown Road, Glenville, NY 12302**, for an Area Variance in regard to the proposed installation of a 35 ft X 14.9 ft inground swimming pool with a 4 ft high fence in the front yard, on a corner property. This parcel is identified on the tax map as parcel# 15.3-1-22.22 and is located in the Suburban Residential Zoning District.

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

**270 – 9 C. Location.** No accessory structure shall be located in any front yard

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

Sent to 25 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel asked the applicant if he had any comment to share with the Board. D. Coirin appreciates the Board's time and will answer any questions they may have.

**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. D. Schlansker asked the applicant if he would be willing to a condition that the trees along Spring Rd. remain and be maintained? The applicant agreed.

Chairman Hennel noted that this is a corner lot, so even though it is a front yard, the proposed pool is not past the front plane of the house.

B. Peterson asked if there would be any type of patio or other outside item we would need to consider? The applicant replied, not at this time.

D. Schlansker noted that the installer of the pool did a nice job supplying information and diagrams to the Board. It is appreciated.

**Chairman Hennel closed the public hearing:**

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 35 FT X 14.9 FT INGROUND SWIMMING POOL

at 555 SWAGGERTOWN ROAD WITH TAX MAP # 15.3-1-22.22 AND LOCATED IN A SUBURBAN RESIDENTIAL ZONING DISTRICT 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 270-9 C, NO ACCESSORY STRUCTURES SHALL BE LOCATED IN ANY FRONT YARD

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 JULY 27, 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, BEING ON A CORNER LOT AND WITH THE CURRENT SURROUNDING PROPERTIES, I FIND THIS APPLICATION WILL HAVE NO UNDESIRABLE AFFECT TO THE CHARACTER OF THE NEIGHBORHOOD.
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, THE PROPOSED PLACEMENT OF THE SWIMMING POOL IS THE BEST LOCATION ON THE LOT AND THIS IS A CORNER LOT WITH TWO FRONT YARDS. WITH THE APPLICANT'S SEPTIC SYSTEM, IT ALSO PRECLUDES LOCATING IT IN ANY OTHER LOCATION.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: NO, AGAIN THE LOT HAS TWO FRONT YARDS.
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, THE FRONT YARD ON SPRING ROAD IS HEAVILY TREED WITH NICE DESIGUAOS BUFFER WHICH WILL NICELY BUFFER THE POOL FROM THE ROAD AND THE NEIGHBOR ACROSS SPRING ROAD.
5. Whether there has been any self-created difficulty. Finding of fact: YES, BUT WITH TWO FRONT YARDS THE SWIMMING POOL PLACEMENT WOULD BE VERY DIFFICULT OR IMPOSSIBLE ANY PLACE ELSE ON THE LOT.

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

Conditions: THE TREES REMAIN AND BE MAINTAINED ON SPRING ROAD AS A BUFFER.

**MOTION:**

**Moved by:** D. Schlansker

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

**MOTION ACCEPTED**

**Application of Raymond & Kathleen Collar, 14 Cedar Lane, Glenville, NY 12302**, for an Area Variance in regard to proposed construction of an addition on the back of the house, as well as a new front entryway vestibule and porch on the front of the house. This parcel is identified on the tax map as parcel# 15.20-4-45 and is located in the Suburban Residential Zoning District.

In accordance with the Codes of Glenville, the following Area Variances are being requested.

**270, Attachment 1:1** Minimum side setback required is 15 feet. Applicant is proposing a setback of 14 feet and requesting a variance of 1 foot.

**270, Attachment 1:1** Minimum front setback required is 30 feet. Applicant is proposing a 10 foot setback from the front property line and requesting a 20 ft variance for the front setback.

An email was received to please table the application until the next meeting.

R. Collar was online and requested to table the application.

**MOTION:**

**Moved by:** Chairman Hennel

**Seconded by:** B. Peterson

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

**NOES:** 0

**ABSENT:** 0

**MOTION TABLED**

**MOTION:** To adjourn the July 27, 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

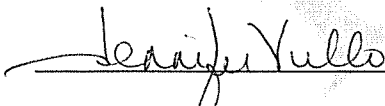
**ABSENT:** 0

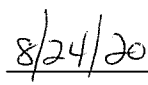
**MOTION APPROVED**

Next agenda meeting: August 17, 2020

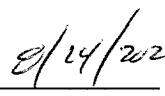
Next meeting: August 24, 2020

Submitted by,

  
\_\_\_\_\_  
Stenographer

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
ZBA Chairman

  
\_\_\_\_\_  
Date

Ricardo C. Apud

Town Clerk

10/26/2020

Date

FINAL