

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

**Monday September 28, 2020**

**PRESENT:** Chairman: David Hennel; Juliano Febo, Beth Kissinger, Dick Schlansker, alternate: Joe Vullo

**ABSENT:** Brian Peterson

**ALSO ATTENDING:** Code Enforcement: Jim Pangburn; Stenographer: Jen Vullo

**ALSO ATTENDING VIRTUALLY:** Attorney: Courtney Heinel; Carly Clark, Frank Taldone

**Chairman Hennel called the meeting to order 6:59 pm.**

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

**MOVED BY:** B. Kissinger

**SECONDED:** J. Febo

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

**NOES:** 0

**ABSENT:** 1 (Peterson)

**ABSTAIN:** 1 (Vullo)

**MOTION CARRIED**

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

**MOVED BY:** J. Febo

**SECONDED:** B. Kissinger

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

**NOES:** 0

**ABSENT:** 1 (Peterson)

**ABSTAIN:** 1 (Vullo)

**MOTION CARRIED**

## PUBLIC HEARING

**Application of Trustco Bank 286 Saratoga Road, Glenville NY 12302** for the proposed installation of a new digital, (LED), sign by AJ Signs, 842 Saratoga Road, Burnt Hills 12027. The proposed new digital sign will be replacing an existing sign currently located at the business. The property is located within the General Business Zoning District as well as the Town Center Overlay District. It is identified on the tax map as parcel # 22.7-6-5.11

In accordance with the Codes of Glenville, the following sign variances are being requested:

**270-133 I. Signs (5) Minimum performance criteria.** The following performance standards shall apply to signs in the Town Center Overlay District: **(h) Setbacks.** Monument signs shall have a minimum setback of 10 feet from the right-of-way line and 10 feet from the side property line and shall be located in a manner that does not interfere with required minimum sight distance at driveways or intersections.

**270-133 I. Signs (4) Prohibited Signs.** The following signs shall be prohibited in the Town Center Overlay District: **(a) Moving signs.**

**270-133 I. Signs (5) Minimum performance criteria.** The following performance standards shall apply to signs in the Town Center Overlay District. **(c) Size.** Monument signs, as permitted in Subsection I of this section, shall have a maximum area of 50 square feet per sign face for the primary sign and 24 square feet per sign face for any secondary signs. Double faced signs are permitted. For all other signs, the size standards in Article IX for the underlying zoning district shall apply.

This application was tabled from the last meeting awaiting County review. It was deferred to local consideration. Trustco offered a different sign option and would like to table the application to give the Board time to review the amended application.

**Application of Glen Esk Apartments 207-213 Sacandaga Road, Glenville NY 12302** for the installation of a new additional sign by AJ Signs 842 Saratoga Road, Burnt Hills NY 12027. The new proposed additional sign is 4.5 square feet which would exceed the allowable square footage for a sign by 3.5 square feet. The property is located within the Mixed Use Planned Development Zoning District and is identified on the tax map as parcel #29.15-4-2.112

In accordance with the Codes of Glenville, the following sign variances are being requested:

**270-69 Signs by zoning district/area (3) Residential development identification signs** (for subdivisions, apartment complexes, townhouse developments, condominium developments, and planned developments): **(a) Will not exceed 32 square feet in total sign display area.**

This application was tabled from the last meeting awaiting County review. It was deferred to local consideration.

Chairman Hennel asked the applicant if she had any comment to share with the Board. Carly Clark from AJ Signs was on the call.

**Chairman Hennel opened the public hearing:**

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. Marc Flanagan – 16 Evergreen Blvd. was in favor of the application.

Chairman Hennel solicited questions from the Board members. J. Febo asked for clarification of the ground clearance from grade to the bottom of the sign. C. Clark explained right now it is 25". If granted the rider for the phone number, it would be 17".

Chairman Hennel noted that a possible alternative would be to re-letter the sign to include the phone number. C. Clark replied that could be an alternative but she would have to recalculate that given the space that exists. Chairman Hennel also confirmed that the requested panel would not be movable or changeable? C. Clark replied it would be stationary and only include the phone number. Chairman Hennel explained that it could be included as a possible condition of approval that the sign must be static. Chairman Hennel asked if they stay within the same dimensions, can they re-letter the sign? J. Pangburn noted that a building permit would be needed for sign face replacement as long as they stay within the current dimensions. The Board could impose a condition that the sign addition can only include the phone number.

D. Schlansker asked who decided that the sign needed a phone number? He is concerned that this is a segmented approval process since they were just here for a sign variance and approval recently. C. Clark explained that a co-worker who worked on the previous sign is no longer employed by the company. She understands that the applicant has had trouble leasing the apartments and feels a phone number would help.

**Chairman Hennel closed the public hearing:**

**MOTION:**

J. Febo: clarification – if granted, does it give the sign more total s/f, now vs what they asked for originally? J. Pangburn stated yes. J. Febo stated they were already above what is allowable for a sign and now they are asking for more.

The applicant has applied for an area variance with regard to the Codes of the Town of Glenville Section(s) 270-69 3a for Glen Esk Apartments located at 207-213 Sacandaga Rd and located at tax map parcel 29.15-4-2.112, because the proposal would be in violation of the zoning regulations of the Town; and

The Zoning Board of Appeals having considered the application, after a full and complete public hearing held on Aug 24, 2020 and 9/28/2020 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; has noted, 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, there would not be an undesirable change: the existing sign and supports shall remain untouched, only a small portion of signage will be added below it to post their phone number

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 sq footage of the current sign is already at its max allowable size, and there is no place else on the property where it would be visible to passer-byers, without necessitating a reface of the entire sign

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: the area variance is not substantial in size. It is only 3.5 sq ft larger than what is existing- equivalent to 8" tall by 73" wide

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 sign will only be attached to what is currently in place

5. Whether there has been any self-created difficulty. Finding of fact: yes, we do feel it is self-created, yet that alone shall not preclude the granting of the variance

Now, therefore be it resolved that this application for an area variance be granted with condition  
Condition: the variance is specifically for the portion of the sign to list the phone number, and without reapplying, the sign cannot be changed to post a web site, or types of units available for rent

**MOTION:**

**Moved by:** B. Peterson (read by Chairman Hennel)

**Seconded by:** B. Kissinger

**AYES:** 2 (Hennel, Vullo)

**NOES:** 3 (Schlansker, Kissinger, Febo)

**ABSENT:** 1 (Peterson)

**MOTION FAILED**

**Application of Marc and Jennifer Flanagan, 16 Evergreen Blvd, Glenville, New York 12302**  
for the proposed installation of a 6 ft fence to extend into the front yard of the parcel extending 24 ft. forward toward Hadel Road and running 96 feet along the Hadel Road side of the parcel. This is a corner property and is located within the Suburban Residential Zoning District and is identified on the tax map as parcel # 22.10-1-22.

In accordance with the Codes of Glenville, the following area 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 fence in the Hadel Road side of the front yard. The applicant is seeking a variance in height of 2 feet for the fencing running approximately 144 feet.

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

Sent to 50 neighboring property owners with 3 responses. This was not referred to the County.

**Letters Received:**

David & Kelly Wetzel – 34 Hadel Rd – in favor

Dr. Richard Hurley – 18 Evergreen Blvd – in favor

Greg & Darcy Baumbach – 27 Hadel Rd - opposed

Chairman Hennel asked the applicant if he had any comment to share with the Board. M. Flanagan understands the email from the Baumbach's but feels the fence would not impact the line of sight for traffic. He did submit additional pictures showing the layout.

**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 noted that the front of the house faces Evergreen and the side faces Hadel. He commented that a significant portion of the property is truly the back yard, but noted that the applicant is requesting to extend toward Hadel as well. He stated, "We are trying to be a town of neighbors not a town of fences, especially 6' front yard ones." He asked the applicant if he could make the part going toward Hadel 4' to follow Town code? He also noted that the first flag marker is pretty far out and would be noticed by people turning from Evergreen onto Hadel. Would he consider extending out only 8' instead of 24'? M. Flanagan explained he considered extending 8', 16', and 24', according to dimensions of each section of fence. The 8' and 16' distances did not clear obstacles like the play fort and trees. Chairman Hennel noted that 8' might not clear the play fort.

J. Febo inquired about the distance from the edge of the asphalt to the 1<sup>st</sup> fence post. M. Flanagan estimated it to be 35' from the center of the road. J. Febo calculated it to be about 25' to the edge of the asphalt.

J. Vullo then questioned the distance from the house to the road as 50'? M. Flanagan replied yes.

Chairman Hennel asked if the fence would protrude into the front yard sight line of the neighbor behind them (noting that house is set back some)? In other words, if they walked out their front door and looked left, are they looking at fence? M. Flanagan replied yes they would see about 1 panel of fence. He noted they have given verbal support, noting it is an improvement over the overgrown materials there now.

J. Febo asked if the trees there now are staying? M. Flanagan answered yes, one fell down last season and he took 2 small ones out.

B. Kissinger asked how far the fence will be from the garden area on Hadel? M. Flanagan replied approximately 8'. B. Kissinger asked if any consideration had been given to not doing a

solid fence, but instead a see-through one? M. Flanagan explained they are looking for privacy with two young children.

D. Schlansker clarified the tree line with the location of the fence.

Chairman Hennel stated he was hoping for a compromise on this application. He was going to ask for some additional screening of the fence also. He explained the Board can vote on the 24' requested or the applicant can offer a compromise. M. Flanagan noted that they have a dog too, that would jump a 4' fence. Chairman Hennel noted there is still significant space in the back yard even if they didn't extend it further out.

J. Vullo asked for clarification on a 4' fence. Chairman Hennel stated he is allowed a 4' fence with no variance in the front yard.

Chairman Hennel explained to the applicant that he has three options: vote as is, amend the application, table till next meeting. M. Flanagan stated that it is not an option to take down the play fort or the trees. He asked what a 'no' vote would mean? Chairman Hennel explained he can go off the plane of the house, re-apply for less, or install a 4' fence.

J. Febo noted that the backside of the lot has a lot of foliage. The concern is how far the fence is coming out into the yard toward the road.

D. Schlansker noted that the island in the front is more of a distraction for any driver than a fence might be. However, he would like to see the fence pushed back as close to the trees as he can get it. M. Flanagan said he would be happy to go closer to the tree but was trying to work in 8' segments, as that is the measurement of the fence panels.

J. Febo asked the Board can we set a condition that he can only go as far as the trees without knowing the exact measurement of that distance? J. Pangburn explained that if the Board grants the 24' distance, the applicant can go anywhere from 0-24', he just can't go over that. J. Febo then asked the applicant if there was any thought to a perforated/lattice topped fence so it's not a wall of white, just on the part facing Evergreen and then down the side on Hadel? M. Flanagan said he would consider that (4' solid w/ 2' lattice on top).

J. Vullo asked what that would change as far as sight line? J. Febo explained he was looking at something to break up the wall of white. B. Kissinger stated she was referring to a chain link fence and not solid at that location. M. Flanagan noted there is a 3' topographic slope from Hadel to the grass. Chairman Hennel stated that adds even more height to that side, which is not favorable.

Mr. Taldone – 21 Hadel Rd.- expressed concern with the sightline if someone is driving on Evergreen south and then potentially turning right on Hadel. How far out from the road is this fence, 10 feet? He feels 24' is a lot of fence.

J. Pangburn explained that the sight radius is calculated by drawing a triangle 30' out in both directions. He noted the applicant is beyond that at about 35'. J. Febo stated the fence is 25' from the road, noting the applicant measured from the center of the road to get 35'. The fence

would be about 65-70' from the intersection. It's not so much the corner as the solid wall of fence that concerns him. J. Pangburn said he is exceeding the sight radius minimum.

Chairman Hennel asked the applicant if he wanted to vote as is, amend the application, or table it? M. Flanagan said to vote as is but change to a 6' fence, which includes 2' lattice on top.

**Chairman Hennel closed the public hearing:**

J. Febo noted that if a condition is written for lattice on top, it might not measure exactly 2'.

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a six foot high fence in the front yard of the parcel facing Hadel Road at 16 Evergreen Boulevard, Glenville, NY and as identified on tax map as 22.10-1-22 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 section 52C – Residential Uses and the restriction that fences in the front yard of parcels shall not exceed four feet in height & parcel is a corner lot which by definition has front yard facing the streets – thus a front yard facing Evergreen Blvd as well as the side facing Hadel Road is also considered/classified as a front yard

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, the six foot fence requested by applicant will extend 24 feet into the area deemed as front yard for the corner parcel. As the front yard area facing Hadel Road is of similar distance to other properties and the six foot fence would be seen as extending significantly into the front yards of other properties where front yard setback is similar to the side setback of 16 Evergreen Boulevard

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, the applicant has the ability to locate the fence only in the back yard, not needing this variance, or could extend into the front yard at a 4' height as is allowed by code.

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 not allowing 6' fences in the 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: The applicant has amended the application to allow for the fence to include a portion of lattice no less than 1'.

However, I do believe this does potentially have a negative impact of the neighborhood due to the fact of the extent of the fence in the front yard.

5. Whether there has been any self-created difficulty. Finding of fact: Yes, situation is self-created.

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

**NOTE: Motion written as a denial so a 'yes' vote = denial**

**MOTION:**

**Moved by:** Chairman Hennel

**Seconded by:** B. Kissinger

**AYES:** 2 (Hennel, Kissinger)

**NOES:** 3 (Schlansker, Febo, Vullo)

**ABSENT:** 1 (Peterson)

**Reasons for denial (criteria not met):**

Hennel – failed due to: undesirable change, there is a reasonable alternative, is substantial, and is self-created

Kissinger – failed #3

**MOTION FOR DENIAL FAILED**

Chairman Hennel noted that a motion to approval is needed to move forward. J. Febo noted the applicant stated he was willing to move the fence closer to the trees but did not know that exact measurement. He asked the applicant if he would like to table the application and come back with the exact measurement? It was suggested that he calculate the measurements to locating the fence outside the trees or even just inside the trees.

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

**MOTION TO TABLE:**

**Moved by:** J. Febo

**Seconded by:** D. Schlansker

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

**NOES:** 0

**ABSENT:** 1 (Peterson)



D. Schlansker mentioned to the applicant that the fence doesn't have to be perfectly parallel with the road.

J. Febo asked the applicant to bring a new drawing with the exact measurements to the next meeting.

Chairman Hennel suggested the applicant send a letter to J. Pangburn showing the amendments to the application.

B. Kissinger suggested that the applicant speak with the neighbors who have concerns regarding the fence.

**Application of Maurice Watson, 5 Mohawk Avenue, Alplaus, New York 12008** for replacing an existing 21 ft X 20 ft detached garage with a new 30 ft X 28 ft detached garage. The property is located within the Suburban Residential Zoning District and is identified on the tax map as parcel# 31.5-1-29.

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

**270-9 G (2)** The maximum square footage allowed for an accessory structure in the Suburban Residential Zoning district is 576 square feet. The applicant is proposing to construct an 840 sq ft accessory structure and therefore is requesting a variance of 264 sq ft.

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

Sent to 45 neighboring property owners with 1 response. This was not referred to the County.

**Letters Received:**

One letter signed by four neighbors in support:

Jean Connelly - 234 Alplaus Ave

Mark & Jen Kelly – 7 Mohawk Ave.

Thomas & Linda Kiernan – 1 Alplaus Ave.

Paul & Tennesa Cassella – 2 Alplaus Ave.

Chairman Hennel asked the applicant if he had any comment to share with the Board. Nothing further to add.

**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 clarified the exterior and roof materials. M. Watson answered: vinyl siding (Brunswick with white trim), metal roof. He explained he has spacing issues and needs a garage.

Chairman Hennel confirmed with J. Pangburn that all setbacks are within Town codes? J. Pangburn replied yes, he is just exceeding maximum s/f.

M. Watson explained the overhang is to store bikes and sports equipment. D. Schlansker confirmed that it faces the house? M. Watson said yes.

**Chairman Hennel closed the public hearing:**

J. Febo reviewed the four conditions he is proposing with the applicant. He agreed to them all.

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 30ft x 28ft detached garage at 5 Mohawk Ave 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 G (2) The maximum square footage allowed for an accessory structure in the Suburban Residential Zoning District is 576 square feet and the proposed structure is 840 square 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 September 28, 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 placed on the property and fits the character well. This structure will be replacing a structure that is outdated and falling down 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 make the footprint of the structure smaller, closer to the current structure there. However, in consideration of storage space, the applicant's goals may not be achieved.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: No. Although the variance being requested is 31% of the allowed square footage, a carport is also included in the

calculation of total square footage, ultimately adding open space to the square footage measurement.

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 structure on the property. It would not create an adverse environmental impact.
5. Whether there has been any self-created difficulty. Finding of fact: Yes. The choice to build an accessory structure of this size for personal use is a self-created difficulty.

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

Conditions:

1. The roofing and siding materials shall complement the existing house in color and style i.e vinyl siding in a complementary color.
2. The proposed structure shall only be for storage of personal property and equipment.
3. The proposed structure shall not be used as a residence.
4. No lighting shall be directed onto a neighboring property.

**MOTION:**

**Moved by:** J. Febo

**Seconded by:** D. Schlansker

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

**NOES:** 0

**ABSENT:** 0

**MOTION APPROVED**

**MOTION:** To adjourn the September 28, 2020 meeting of the Town of Glenville Zoning Board of Appeals.

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT: 0**

**MOTION APPROVED**

Next agenda meeting: October 19, 2020 (time change to 6:00pm)

Next meeting: October 26, 2020

Submitted by,

Jennifer Vello

10/26/20

Stenographer

[Signature]

Date

10/20/2020

ZBA Chairman

[Signature]

Date

10/26/2020

Town Clerk

Date