**MEETING OF THE ZONING BOARD OF APPEALS**

**OF THE TOWN OF GLENVILLE**

**THE GLENVILLE MUNICIPAL CENTER**

**18 GLENRIDGE ROAD, GLENVILLE, NY 12302**

**Monday December 28, 2020**

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

**ABSENT:**

**ALSO ATTENDING VIRTUALLY:** Attorney: Courtney Heinel; Code Enforcement: Arnold Briscoe; Stenographer: Jen Vullo; Kevin Cozzolino, John Rinebolt, Silas Schrader

**Chairman Hennel called the meeting to order 6:57 pm.**

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

**MOVED BY:** Chairman Hennel

**SECONDED:** J. Febo

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

**NOES: 0**

**ABSENT: 0**

**ABSTAIN: 0**

 **MOTION CARRIED**

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

**MOVED BY:** Chairman Hennel

**SECONDED:** J. Febo

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

**NOES: 0**

**ABSENT: 0**

**ABSTAIN: 0**

 **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 August, September and October meetings, and removed from the November agenda due to unsubmitted site plan. On December 22, 2020 an email from Kristen MacLeod, AJ Signs, was received officially withdrawing the application.

**Application of Kevin Cozzolino, 3 Ralmar Drive, Glenville, NY 12302** for the proposed placement of an 8 ft x 10 ft shed, this property is a corner lot, this property is located within the Suburban Residential Zoning District. It is identified on the tax map as parcel# 16.13-4-15

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

**270-9 (c) Location – No permitted accessory structure shall be located in any front yard.**

This application was tabled from the November meeting.

Chairman Hennel asked the applicant if he had any comment to share with the Board. K. Cozzolino acknowledged the suggestion offered by J. Febo at the last meeting to place the shed in the middle of the parking area, half in and half out of the fence. After further review, he noted that power lines/poles come into that area off of Ralmar Dr. Trees would need to be removed and power lines dealt with if the shed were placed there. He explained that about halfway to two-thirds of the way into the parking area are where the power lines are in play.

**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. J. Febo thanked the applicant for looking into the option suggested. He explained that it is helpful to let the Board know when an option is not feasible.

B. Kissinger questioned if we are back to considering the 2nd drawing submitted? K. Cozzolino replied yes, when looking at the parking area, placing the shed on the other side of the fence, near the pine trees, as close to the back corner as possible.

Chairman Hennel questioned the 8’ wide area? “If we say no closer to Ralmar Dr. than 45’, and within 15’ of the paved driveway/parking area?” Potentially if the variance is granted, it could be conditioned for a specific spot. Screening will also be required to further conceal it from Ralmar Dr. K. Cozzolino agreed to this. He stated the shed will be painted a color to blend in and screened with probably a row of pine trees to obscure it.

**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 an 8’ by 10’ shed at 3 Ralmar Drive and identified on tax map #16.13-4-15 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(s) **270-9 (c) Location – No permitted 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 December 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, with this parcel being located in a Suburban Residential Zoning District and the applicant having a large lot area, the request will not create an undesirable change in the neighborhood or a detriment to nearby properties

1. 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, with the remaining land available to construct a shed on there are large elevation differences which would make the construction almost impossible

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

No, the applicant is located on a corner lot, which has created two front yards, which has created the hardship

1. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community. Finding of fact:

No, for reasons already discussed

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

Yes, but having two front yards as well as the elevation of the property are making these factors much less

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

Conditions:

1) Shed will be located in new location as shown on the plan, no closer than 45’ to Ralmar Drive and within 15’ of paved driveway/parking area

2) A row of pine or deciduous trees will be planted to help screen the shed from Ralmar Drive

3) The color of the shed will be green or brown which will blend in with the surroundings

**MOTION:**

**Moved by:** D. Schlansker

**Seconded by:**  B. Peterson

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

**NOES:** 0

 **ABSENT: 0**

 **MOTION APPROVED**

**Silas Schrader, 2311 West Glenville Road, Glenville, NY** 12302 for the proposed construction of a covered front porch. This property is located within the Rural Residential Zoning District and is identified on the tax map as parcel# 3.4-2-2

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

**270 Attachment 1 Front Setback:** Rural residential zoning district requires a minimum front setback of 75ft. The existing structure is already at a substandard setback but is a legal non-conforming structure. A variance to further encroach an additional 9ft into the existing substandard setback is being requested. The property owner will be removing the existing 9 ft x 10 ft front porch and replacing it with a new covered front porch in the same footprint**.**

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

Sent to 18 neighboring property owners with no initial responses. This was not referred to the County.

**Included with application:** maps and pictures

**Letters Received:**

Nicole Battista – 2295 W Glenville Road – in favor

Alfred Mose - 2343 W Glenville Road – in favor

Chairman Hennel asked the applicant if he had any comment to share with the Board. S. Schrader was on the line. He mentioned that he measured the distances from the center of the road to the front corner posts of several houses to illustrate how close they all are to the road in that area (page 2 of application).

**Chairman Hennel opened the public hearing:**

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

Pete Bednarek – 2235 W Glenville Road – in favor

Chairman Hennel solicited questions from the Board members. He stated he appreciated the drawings provided. He then asked the building department if steps are usually included in the measurements? A. Briscoe explained that the way the applicant is doing the project, the steps will be extra. Once the porch becomes part of the structure, a variance is needed in this particular situation. If the steps were to be replaced as is, he wouldn’t need a variance even though they don’t meet the setback, because you can’t refuse him steps to enter/exit the building, as they are needed per town code. In this case, because the porch is part of the structure, the Board will have to rule on the steps and structure. He also explained that adding a roof makes it part of the structure, but the footprint will remain the same.

B. Peterson asked if the applicant would consider locating the steps down either side of the porch? And how will the steps affect the existing sidewalk? S. Schrader explained that the original steps from the church went down toward the road. He thought they would do the same. He also explained that there is a little bit of grading there. A couple of inches of fill will be brought in for the front landing. The cracked concrete needs replacing and would probably be similar to what is there now. B. Peterson asked if the steps come out further, is it too far into the walkway/sidewalk? S. Schrader explained the closest riser would be at the same plane as what is there now. We wouldn’t be moving the sidewalk closer to the road. The columns would be closer to the building, with the sidewalk in the same place. The landing will be slightly smaller. The steps will be no closer to the sidewalk than they are now.

J. Febo confirmed that the steps will encroach 9’ off of the building and the roof will encroach 7’ further into the setback. Hence, the roof will be a little shorter than the porch frame? S. Schrader confirmed this.

B. Peterson asked for clarification on page 5 of application, regarding the location of the steps.

Chairman Hennel discussed the current dimensions. S. Schrader stated that the measurement from the brick to the front of the landing is 7’, plus two 12 inch treads is 9’. That is where the sidewalk joint is located. The existing whole structure is 9’ deep by 10’ wide and they are staying within that footprint.

J. Febo compared the current porch side angle (pg3) with the proposed porch. The current porch is 9’ out from the building, but the proposed porch blocks will end 2’ closer to the building.

Chairman Hennel confirmed the current side wall won’t come out as far as it does currently.

D. Schlansker thanked the applicant for his complete application package.

**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 covered front porch at 2311 West Glenville Rd 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 Attachment 1 Front Setback: Rural residential zoning district requires a minimum front setback if 75ft. The existing structure is already at a substandard setback but is legal non-conforming structure. A variance to further encroach an additional 9ft into the existing substandard setback is being requested. The property owner will be removing the existing 9ft x 10ft front porch and replacing it with a new covered front porch in the same footprint.

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 December 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 will add to the character of the neighborhood as the applicant is currently working to convert the property into a residence. The proposed structure is updating the currently standing porch, to be clear — the proposed structure holds an identical footprint to the existing one - encroaching 9ft into the setback, however the additional roof will only encroach 7ft.
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. In order to build a new porch that would include a roof and satisfy the applicant’s needs, there is no feasible way to do so without encroaching on the already substandard setback.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: No. As the existing front porch sits, it encroaches into the setback by 9ft, and is minimal in impact when considering the dimensions allowed.
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 and assist the applicant in creating a safer front porch for use in weather conditions with assistance of the new roof.
5. Whether there has been any self-created difficulty. Finding of fact: No. Considering that the current dwelling sits at an already substandard setback the only way to not necessitate the need for a variance would be repairing the porch — In this case, the applicant is looking to replace the porch as it is past its useful life.

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

Conditions:

1. All materials used shall complement the existing house in color and style.

2. The proposed structure shall not be enclosed.

**MOTION:**

**Moved by:** J. Febo

**Seconded by:**  B. Kissinger

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

**NOES:** **0**

 **ABSENT: 0**

 **MOTION APPROVED**

**John Rinebolt, 404 Ballston Road, Glenville, NY 12302** for a proposed lot line adjustment. These parcels are located within the Professional/Residential Zoning District and are identified on the tax map as parcel# 30.10-2-8. & 30.10-2-9

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

 **270- Attachment 1 Minimum lot size:** Professional residentialzoning district requires a minimum lot size of 30,000 square feet. Applicant is proposing to create a lot of 16,525 square feet and is requesting a variance of 13,475 square feet.

 **270- Attachment 1 Minimum lot depth:** Professional residential zoning district requires a minimum lot depth of 180 linear feet. Applicant is proposing to create a lot depth with 129 linear feet and is requesting a variance of 51 linear feet.

 **270- Attachment 1 Minimum Frontage:** Professional residential zoning district requires a minimum of 140 linear feet of frontage. Applicant is proposing a lot with frontage of 101 linear feet and is requesting a variance of 39 linear feet.

 **270- Attachment 1 Minimum Front Setback:** Professional residential zoning district requires a minimum front building setback of 40lf. Applicant is proposing a lot with a front building setback of 19.4 linear feet and is requesting a variance of 20.6 linear feet.

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

Sent to 26 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. J. Rinebolt would like the correct spelling of his name noted.

**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 the drawing, revision 1, received on 12/23/20. He asked for clarification of the 2 lots. The tax map lot ending in 9 is the northern lot, while the tax map lot ending in 8 is the southern lot. The 4th variance is for the northern lot. The house lot ends 128’ from Ballston Ave. J. Rinebolt confirmed this and explained the commercial building is 148’ from Rt. 50. Chairman Hennel confirmed the sign currently located on the northern lot will be moving to the north? J. Rinebolt explained that he will be removing the sign from the residential lot, but that it will be up to the new tenant to install a new sign on the northern parcel. He stated that he has to install a new water lateral from across the street and wouldn’t want it to be in the way of the proposed new sign. He is not sure when the Town would open the window for installation of water main taps. Chairman Hennel proposed that the existing sign must be removed by 6/1/21.

D. Schlansker asked if the two parallel lines are the frontage (min. front setback), so the rear yard of the house becomes the front yard of the commercial building. A. Briscoe replied yes.

Chairman Hennel confirmed that because of the keyhole style the front setback for the business is 19.4’. J. Rinebolt discussed the calculation of the front setback as determined by Town code. Chairman Hennel stated that they are not ruling on a variance based on someone creating a keyhole lot. There are currently two lots. Adjustments are just being made within the two lots.

B. Peterson asked if the variance is granted, would anything prevent a 6’ fence from going up behind the residence? A. Briscoe explained that the owner of the residence can put a 6’ fence in the back yard, but the owner of the business cannot put a 6’ fence in the front yard.

Chairman Hennel asked if there was any need for easements for water? A. Briscoe stated there is only a need until he reconnects the water line. J. Rinebolt explained there is already a proposed 10’ easement for a water line on the front corner of the residential property (3rd note already addresses this). He has an official signed document stating this. A. Briscoe stated the Town will need a signed copy of that. Chairman Hennel noted the Town will need that no later than 1/31/21.

**Chairman Hennel closed the public hearing:**

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit for a lot line adjustment concerning two existing / separate properties at 404 Ballston Road, Glenville, NY and as identified on tax map 30.10-2-8 and 30.10-2-9

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 – attachment 1 where professional zoning district requires a minimum lot size of 30,000 sq foot and applicant is requesting a variance of 13,475 sq feet for the southern lot

270 – attachment 1 where professional zoning district requires a minimum lot depth of 180 linear feet and applicant is requesting a variance of 51 linear feet for the southern lot

270 – attachment 1 where professional zoning district requires a minimum frontage of 140 linear feet and applicant is requesting a variance of 39 linear feet for the northern lot

270 – attachment 1 where professional zoning district requires a minimum front setback of 40 linear feet and applicant is requesting a variance of 20.6 linear feet for the northern lot

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: No, variances are for a lot line adjustment for two existing parcels along Ballston Avenue, change is expected to be transparent to neighbors / community

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, applicant could maintain current lot lines which includes some lines drawn prior to the 1950’s, yet to maintain separate lots where lines are to be adjusted would likely require some variances based on the location of current buildings and utilities

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

Variance for lot size is substantial, but recognizing two lots currently exist, that any lot line adjustment would require variance

Variance for front setback for one lot while being nearly 50% of requirement, the existing building is over 100’ from road – so overall we see this as NOT substantial

Variances for lot depth and minimum frontage are not see as substantial related to % of variance, as well as not substantial based on no change in number of or location of buildings on 2 existing lots

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:

No, lot line adjustment is within two existing lots and will result in lot dimensions more similar to other nearby properties

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

No, the existence of two uniquely shaped separate lots pre-dates zoning where any adjustment of lot line that results in retaining two separate lots would likely require variances based on current zoning.

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

Conditions:

1. As discussed with PZC, applicant has agreed to remove sign advertising the business from the southern lot. This move to be completed no later than June 1, 2021 (to allow time based on winter weather)
2. Variances granted and limited to current building size /location as identified on drawing submitted by applicant dated December 23th
3. Applicant will provide a signed and stamped copy of plans and have written verification of necessary easements no later than January 31, 2021.

**MOTION (lot size for southern lot):**

**Moved by:** Chairman Hennel

**Seconded by:**  J. Febo

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

**NOES:** **0**

 **ABSENT: 0**

 **MOTION APPROVED**

**MOTION (lot depth for southern lot):**

**Moved by:** Chairman Hennel

**Seconded by:**  J. Febo

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

**NOES:** **0**

 **ABSENT: 0**

 **MOTION APPROVED**

**MOTION (min frontage for northern lot):**

**Moved by:** Chairman Hennel

**Seconded by:**  J. Febo

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

**NOES:** **0**

 **ABSENT: 0**

 **MOTION APPROVED**

**MOTION (min front setback for northern lot):**

**Moved by:** Chairman Hennel

**Seconded by:**  J. Febo

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

**NOES:** **0**

 **ABSENT: 0**

 **MOTION APPROVED**

Chairman Hennel would like to thank all Board members and staff for all their work this year, especially Beth Kissinger as she ends her term with ZBA.

**MOTION:** To adjourn the December 28, 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: January 19, 2021

Next meeting: January 25, 2021

Submitted by,

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Stenographer Date

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ZBA Chairman Date

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Town Clerk Date