

**MEETING OF THE ZONING BOARD OF APPEALS  
OF THE TOWN OF GLENVILLE**

**THE GLENVILLE MUNICIPAL CENTER**

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

**Monday February 22, 2021**

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

**PRESENT VIRTUALLY:** Barry Suydam, Raphael Smith

**ABSENT:**

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

**ALSO ATTENDING VIRTUALLY:** Attorney: Courtney Heinel; Supervisor Koetzle, Melissa Cherubino, Mike Burns, Lauren Thomas, Debra Anderson, N.E. & D.A. Dean, Tom Wheeler - AJ Signs, Gordon Heeps, Walt Lippmann – MJ Engineering

**Chairman Hennel called the meeting to order 7:00 pm.**

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

**MOVED BY:** Chairman Hennel

**SECONDED:** J. Febo

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

**NOES: 0**

**ABSENT: 0**

**ABSTAIN: 1** (Smith)

**MOTION CARRIED**

**MOTION:** To accept the February 2021 Agenda minutes as amended.

**MOVED BY:** Chairman Hennel

**SECONDED:** B. Peterson

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

**NOES: 0**

**ABSENT: 0**

**ABSTAIN: 1** (Smith)

## **MOTION CARRIED**

## **PUBLIC HEARING**

**Application of Lauren & Jeffrey Thomas, 9 Drott Drive, Glenville, NY 12302** for the proposed placement of a 12'x24' above ground swimming pool in the rear yard. This property is located within the Suburban Residential Zoning District. It is identified on the tax map as parcel # 16.9-1-16

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

**270-9 (e) Above Ground Pool** – All swimming pools and their associated equipment must be located at least 10 feet from all property lines. The applicant is proposing an 8-foot setback from the property line. A variance of 2 feet from the side property line is being requested

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

Sent to 70 neighboring property owners with one response. This was not referred to the County.

### **Letters Received:**

Grace & Joseph Gettings – 31 Fredericks Rd – in favor

Chairman Hennel asked the applicant if he had any comment to share with the Board. Nothing 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. B. Peterson asked the applicant to verify the height of the pool. L. Thomas stated the pool will be 52" in height. J. Pangburn stated that according to NYS code, any pool under 48" in height needs to have a fence around it. Chairman Hennel asked the applicant if there are currently any plans to install a fence. L. Thomas said at this time they are just installing a pool.

B. Peterson asked the applicant where the pool equipment is to be located (i.e. motor/electrical). L. Thomas stated that she will ask the pool company to place it on the opposite side. Chairman Hennel noted that a condition for the variance will be that the equipment cannot be placed in the south side setback. The variance will be specially for the placement of the pool. He also asked if there are plans to add additional shrubs. L. Thomas then stated that they might be researching the cost of a fence. She asked if a variance would be needed if it remains behind the house? Chairman Hennel explained that a 6' fence is allowed as long as it remains behind the front plane of the house. A variance is not needed.

## **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 12'x24' above ground swimming pool in the rear yard at 9 Drott Drive 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 (e) Above Ground Pool** – All swimming pools and their associated equipment must be located at least 10 feet from all property lines

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 February 22, 2021, 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, adjoining neighbors are not opposed
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 rest of the yard is either covered by shade or too close in proximity to the septic and fields
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:  
No, 2' is not substantial as it is only 1/5 shy of the zoning code
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 is not a permanent structure
5. Whether there has been any self-created difficulty. Finding of fact:  
Although the decision to place a pool in this location is solely the decision of the homeowner, the decision should not preclude granting of the variance.

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

Conditions: No pool equipment shall be place on the south side within the setback area

### **MOTION:**

**Moved by:** B. Peterson

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

Chairman Hennel noted that it is a self-created difficulty, however the neighbors most impacted by this did not object.

### **MOTION APPROVED**

**Application of Debra Anderson, 2 Stephen Road, Glenville, NY 12302**, for the proposed placement of a 18ft diameter above ground swimming pool in the rear yard, this property is located within the Suburban Residential Zoning District. It is identified on the tax map as parcel #16.5-2-9

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

**270-9 (e) Above Ground Pool** – All swimming pools and their associated equipment must be located at least 10 feet from all property lines. The applicant is proposing a 7-foot setback from the property line. A variance of 3 feet from the rear property line is being requested.

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

Sent to 40 neighboring property owners with three responses. This was not referred to the County.

**Included with application:** map

#### **Letters Received:**

Charles & Patricia Caputo – 1 Stephen Rd – in favor

Steven & Nancy Kuczek – 4 Stephen Rd – in favor

Glen Neander – 36 Paradowski Rd – in favor

Chairman Hennel noted that this is a self-created difficulty as the property was purchased in August 2020 and the zoning laws have not changed since then. That alone shouldn't preclude the granting of the variance.

Chairman Hennel asked the applicant if he had any comment to share with the Board. Nothing 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. Mr. Kuczek is a direct neighbor of the applicant at 4 Stephen Rd and is in favor of the application.

Chairman Hennel solicited questions from the Board members. He asked if the applicant had considered the location over by the shed to avoid needing the variance? D. Anderson asked if he meant moving the shed or removing it? Chairman Hennel replied either. She wasn't sure if she moved the pool there if it would still be too close to the neighbors.

J. Febo asked if she would be maintaining the shrubs at the back of the property? D. Anderson stated that the arborvitaes at the rear are on the neighbor's property (Neander's property).

**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 18ft diameter (52" height) above ground swimming pool in the rear yard at 2 Stephen 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 (e) Above Ground Pool** – All swimming pools and their associated equipment must be located at least 10 feet from all property lines 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 February 22, 2021, 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, although the lot is a corner lot, the pool location is truly within the footprint of the back yard
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, even with swapping the pool and shed locations, the pool would be too far from the usable back yard and the shed may require a future variance
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:  
No, even though a variance of 3' is only roughly 1/3 of the code in place, the choice to keep the pool in the rear yard, with the neighbor's permission, makes this variance acceptable.
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, an above ground pool is not a permanent structure and there doesn't appear to be any runoff danger to the neighbor in the event of a pool leak

5. Whether there has been any self-created difficulty. Finding of fact:  
Yes, the decision is solely the homeowners, but this request alone should not preclude granting of the variance.

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

Conditions: none

**MOTION:**

**Moved by:** B. Peterson

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

Chairman Hennel noted that it is a self-created difficulty, however the neighbors most impacted by this did not object.

**MOTION APPROVED**

**Application of N.E. & D.A. Dean, 2 Cypress Drive, Glenville, NY 12302**, for the proposed expansion of their existing first floor living space, storage, relocating an existing 2 car garage and adding a second-floor master suite. It is identified on the tax map as parcel # 22.7-2-26

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

**270 Attachment 1 - Side yard Setback** – The suburban residential zoning district requires a minimum side setback of a 15 ft from the property line. The applicant is proposing a 12 ft setback and is requesting a variance of 3 ft.

**270 Attachment 1 - Front yard setback** – The suburban residential zoning district requires a minimum front setback of a 30 ft from the property line. The applicant is proposing a 20 ft setback and is requesting a variance of 10 ft.

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

Sent to 50 neighboring property owners with no responses. This was not referred to the County.

**Letters Received:**

Chairman Hennel asked the applicant if he had any comment to share with the Board. The contractor working on this proposal was on the line. He explained that circumstances arose at this time creating a need to expand. More space is needed for home office, children home

schooling, additional garage space, etc. Because the property is a corner lot, it created issues with other possibilities, which would have required more variance relief. The pool and deck were also considered, as well as the desire to lessen the visual impact from the road. There was also an effort to keep the elevation balanced.

**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 asked if the applicant had spoken to the neighbor at 4 Cypress Dr? He feels an addition could dwarf that home as someone is driving down the road. Mr. Dean has spoken with that neighbor and they are in support of the project. Chairman Hennel explained that without anything in writing, it can only be considered hearsay. He agrees with J. Febo that the garage will be significantly seen by that neighbor.

J. Febo mentioned that the drawings show a proposed deck. He asked if it was currently there? Mr. Dean explained that they are looking to expand what is already there. J. Febo asked if there was any thought given to moving the garage back and to the right, in place of the deck addition to minimize the front setback? The contractor said yes, but they need the second floor master suite within the footprint, and moving the garage back impact this.

D. Schlansker referenced a drawing dated 12/21 that shows an exercise room at a smaller size than currently proposed. With the smaller exercise room, only a front yard setback is needed, as the smaller size wouldn't encroach into the side yard setback. Would the applicant consider going back to that size exercise room so only one variance is needed? Mr. Dean said yes he would consider that.

Chairman Hennel noted the large size of the garage and that the applicant is requesting a variance of 1/3 of the required town code. Any consideration to another alternative in terms of the garage size and location? The contractor said he looked at that, however, the neighbor to the north supports the project. He is also trying to take the roofline, walls, and foundation into consideration.

Chairman Hennel emphasized that letters of support from the neighbors would be helpful.

J. Febo expressed his concern regarding the neighbor's support – right now it is just hearsay.

Chairman Hennel asked the applicant if he would like to table the application to allow time to get written consent from the neighbors, or would he like the Board to vote on the application as is? Mr. Dean requested to table the application. Chairman Hennel also suggested considering alternatives to not encroach into the setbacks so much.

**MOTION TO TABLE:**

**Moved by:** Chairman Hennel

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

**NOES: 0**

**ABSENT: 0**

### **MOTION TABLED**

**Application of AJ Signs on behalf of Gordon Heeps, 233 Saratoga Road, Glenville, NY 12302, for Additional signage of the south facing façade of Well Now Urgent Care. This property is located in the Community Business District. It is identified on the tax map as parcel # 22.11-3-17.11**

**In accordance with the Codes of Glenville, the following variance is requested: 270-69.1(3)C Signs for which permits are required; number; regulations, Placement and number:**

A business located on a parcel of property shall be granted a permit for two signs: one freestanding, double-faced sign and one sign attached to a building (wall sign or permitted roof sign) or two signs attached to a building. The applicant is requesting a variance for an additional sign on the south facing façade for a total of three signs on this parcel. A variance of one additional sign is requested.

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

Sent to 34 neighboring property owners with no responses. This was not referred to the County. J. Pangburn explained that sign variances are not referred to the County.

### **Letters Received:**

Chairman Hennel asked the applicant if he had any comment to share with the Board. Tom Wheeler, AJ Signs, noted that the Town's new master plan was considered, where they want the buildings closer to Route 50. They have a sign facing Route 50, but they also have parking behind the buildings to consider. They felt a sign over the door to identify the Well Now was needed. Many towns typically place signs on the road side and parking lot side. They do everything they can to identify these buildings as Urgent Care sites so people can get the help they need.

### **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 confirmed that the new variance is just for a sign on the south side. People coming from the north would rely on the monument sign. T. Wheeler confirmed this.

D. Schlansker asked that if the sign is to better mark the entrance, could they compromise and make it smaller? He recognized that it does conform to the maximum size allowed, but since it is



a third sign, could they consider making it smaller? T. Wheeler explained that St. Peter's Health Partner has partnered with Well Now and stipulates branding on the signs. Both must be visible on the sign, which greatly increased the size of the sign requested. To make it smaller, the whole logo would have to shrink proportionately, and that would make it too small.

J. Febo asked if another business is going into 233 Saratoga Rd? J. Pangburn replied no. G. Heeps explained that just Well Now is in that building.

**Chairman Hennel closed the public hearing:**

**MOTION:**

The applicant having applied for a sign variance after having been denied a building permit to erect or construct a sign at **233 Saratoga Road with tax map parcel #22.11-3-17.11** in the Town of Glenville, New York; and the applicant having applied for a sign variance with regard to **section 270-69.1(3)C of town code for an additional building sign.** because the proposed sign would be in violation of such restriction, and the Board having considered the application, after a full and complete public hearing on February 22, 2021, and after having considered:

1. The particular hardship or difficulty to the petitioner if the variance is denied. Finding of fact:  
**This sign is being requested on the south side of the new building structure to aid the public in finding the new Well Now Urgent Care office. This additional sign will assist in the safety of vehicle traffic on route 50 for patients using the services provided and to assist in finding the front entrance to the facility.**
2. The magnitude of the variance being sought. Finding of fact:  
**This is a third sign on the site, but this sign is sized under the maximum requirement allowed by the town and the building is designed to accept the sign and it will not look out of place.**
3. The visual impacts to the immediate neighborhood if the variance is granted. Finding of fact:  
**The property is located in a commercial area in which the building and all the signage will be accepted and will not look out of place. It will fit in with the character of the local area.**
4. If the hardship or difficulty has been self-created by the applicant. Finding of fact:  
**Yes, the hardship has been self-created by the applicant. But there will be a benefit to the traffic pattern on route 50 and the safety of the area, because the**

**services and facility will be much easier to locate when approaching from the south on route 50. The detriment to the neighborhood is out weighted by the benefits.**

**Now, therefore, be it resolved** that this application for a sign variance be  
**Granted and be allowed to be installed as described in the application.**

Conditions: none

J. Febo asked if any thought was given to a 3<sup>rd</sup> sign before the monument sign was approved? T. Wheeler did not think the monument sign was on the Well Now parcel. J. Pangburn stated that it was moved further south from its original proposed location but still remains on the parcel. Chairman Hennel asked if the monument sign was for both businesses? J. Pangburn replied yes.

**MOTION:**

**Moved by:** D. Schlansker

**Seconded by:** Chairman Hennel

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

**NOES:** 1 (Peterson)

**ABSENT:** 0

B. Peterson noted that he feels that criteria #4, visual impacts, was not met. He feels that granting this variance would set a precedent to allow more wall signs on future buildings. He also feels the Well Now brand recognition supersedes the need for additional signage.

Chairman Hennel stated that he felt that the impact on traffic as well as the shared entrance provide a benefit and warrant a 'yes' vote.

R. Smith stated he felt the sign was needed for visual effect.

J. Febo commented that AJ Signs comes before the Board frequently. He feels a visual layout would have been helpful.

**MOTION APPROVED**

**Application of MAG Land Development, 7 Southside Drive, Suite 200, Clifton Park, NY 12065, for 231 Saratoga Road, Glenville, NY 12302 to build a 2,300-sf food service restaurant with drive-through. This property is located within the General Business Zoning District. It is identified on the tax map as parcel# 22.11-3-18**

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

**270-273B (1) Parking Space dimensions:** The minimum required size for a parking space is 10'x20'. The applicant is proposing a 9.5'x18' parking space. A variance of .5'x2' is requested.

**270-273B (2) Drive width requirement:** The permitted width for a drive aisle is 24ft. The applicant is proposing 27.7ft. A variance of 3.7 ft is requested.

**270-273C (2) Front parking setback:** The minimum setback for front parking is 25ft. The applicant is proposing a setback of 10ft. A variance of 15ft is requested.

**270-273B (2) Front Drive aisle:** The permitted width for a one-way front drive aisle is 10ft. The applicant is one-way proposing a width of 12ft. A variance of 2ft is requested.

**270-273C (2) Side Parking setback:** The minimum side setback for parking is 10ft. The applicant is proposing a setback of 6.6ft. A variance of 3.4ft is requested.

**270 attachment 2:2 minimum number of parking spaces:** A minimum of 8 parking spaces are required with a maximum of 10 allowed. The applicant is proposing 27 parking spaces. A variance of 17 spaces is requested.

This application has been revised in layout and design. It was requested that it be tabled until next month to allow further review. An informal discussion followed. The application was not officially read into the record due to potential changes.

D. Schlansker recused himself from this application due to a conflict of interest. An alternate will be present next month to vote on this application.

Walt Lippmann, MJ Engineering, was present on the call. He spoke of the conditions presented, specifically the 8 parking spots on the southern side of the Well Now site, and the connection between 233 and 231 Saratoga Road. They are requesting 20 parking spots now, down from the original 27. He noted the 7 spots on the east side by Saratoga Road have been removed. He explained the 27.7 aisle width was chosen for emergency vehicle/fire truck access through the northern end of the lot. He added that Chipotle will have a 'Chipotlane' on the south side of the building. The customer will order online or on the app and then come in to the 'Chipotlane' to pick it up. There is no ordering while in this lane. In regards to the exit – if turning right customers will use the right turn only exit, if turning left customers will exit at the light that is shared with Well Now. The 5 parking spaces near the drive thru will be used mainly by employees. They are allowing for additional greenspace by removing the 7 spaces, as well as a continuation of sidewalk.

Chairman Hennel asked for comments from the community either in favor or opposed to the variance application. None

J. Febo asked when the Well Now plan is going back before PZC regarding the shared spots?

J. Pangburn explained that Well Now was already approved. The 7 spots at the top are already existing with the Well Now proposal. J. Febo also noted the 5 spots next to the drive thru would maybe be used for employees. If a patron parks there, is there any guidance on where to walk? Perhaps a crosswalk? W. Lippmann explained those will be employee spots, otherwise a patron would have to use the crosswalk in front of the entrance. There will be a fence around the patio. He noted they could look into pedestrian crosswalk access.

Chairman Hennel emphasized that maintaining greenspace is important. He is happy to see those front 7 spots removed. He is concerned about 4 other spots where a patron would be backing out into the traffic pattern.

W. Lippmann talked about the northern most 4 spots. There was an original line of 8 spots. It is now 4 spots mirrored to 4 others at Well Now, and has been approved.

B. Peterson suggested an alternative exit in the northern most area. W. Lippmann said it was looked at, but decided it was too close to the entrance on Saratoga Road. There is a limited area and could cause backup within the Chipotle facility. B. Peterson also questioned the island in front that was elongated. Could it be more elongated and moved to the left so those spots could then be moved to the left? This would control incoming traffic to the pick-up window, eliminating outgoing traffic there. W. Lippmann stated that the first generation plans did show something similar to that. PZC recommended moving the entrance to the left side of the property.

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

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

**MOTION APPROVED**

Next agenda meeting: March 15, 2021

Next meeting: March 22, 2021

Submitted by,

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Stenographer

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ZBA Chairman

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Date

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Date

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Town Clerk

Date

FINAL