

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

**THE GLENVILLE MUNICIPAL CENTER**

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

**Monday March 22, 2021**

**PRESENT:** Chairman: David Hennel; Juliano Febo, Dick Schlansker, Brian Peterson, Barry Suydam, Alternate: Joe Vullo

**PRESENT VIRTUALLY:**

**ABSENT:**

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

**ALSO ATTENDING VIRTUALLY:** Attorney: Courtney Heinel; Melissa Cherubino, Mike Burns, N.E. & D.A. Dean, Walt Lippmann – MJ Engineering, Michael Roman

**Chairman Hennel called the meeting to order 7:04 pm.**

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

**MOVED BY:** J. Febo

**SECONDED:** B. Peterson

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

**NOES:** 0

**ABSENT:** 0

**ABSTAIN:** 0

**MOTION CARRIED**

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

**MOVED BY:** B. Peterson

**SECONDED:** J. Febo

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

**NOES:** 0

**ABSENT:** 0

**ABSTAIN:** 0

## **MOTION CARRIED**

## **PUBLIC HEARING**

**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 variance is requested:**

**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.

This application was tabled from the February meeting.

### **Letters Received:**

Lisa Laramie, 4 Cypress Drive – in favor

Joseph Rizzo, 1 Cypress Drive – in favor

Chairman Hennel asked the applicant if he had any comment to share with the Board. Mr. Dean explained the plans were revised to include a smaller storage area on the back, thus enabling them to get rid of the side yard setback variance. He also received letters of support from his neighbors, as per request of Board members. A letter was also obtained regarding the size of the tank for the septic. In regards to the fence, he met with Jim Pangburn and Arnold Briscoe and determined the current fence is within town code. It shouldn't be an issue to leave it where it is. Chairman Hennel clarified that the issue with the fence was more about how far it extends out and impacts the neighbor. He referenced the site plan, signed by himself, that shows the fence should be at or behind the front plane of the house, as it relates to Cypress Dr, but instead extends out 8-10' beyond that. An August 24, 2015 drawing shows the fence a few feet further back from Cypress Dr. Mr. Dean said he would put the fence back exactly where they obtained approval for it last 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. B. Peterson asked if the Board is saying the fence can't be more than 4' tall because it is in the front yard? Chairman Hennel stated that is one consideration. Also, if the Board were to grant the variance for the garage to encroach 10' into the front yard setback, would that be mitigated by ensuring the fence is no closer than 35'? Visual inspection now puts the fence at 8-10' out from the house. If the neighbors at 4 Cypress come out their front door and look left, they will directly see the fence. They have signed a letter of approval for the garage but maybe not the fence. "We want

Glenville to be a community of neighbors, not a community of fences.” Mr. Dean explained the fence on both sides of the house is in exactly the same location as previously agreed upon, directly in the center of the structure. He never went back and changed that from the last time it was approved. Chairman Hennel stated the issue is how far the fence protrudes out into the front yard, further than the house. Mr. Dean said the fence is parallel with the house. If it was parallel to the road it would be an awkward angle.

D. Schlansker asked if the Flynn Design drawings are wrong? Mrs. Dean had Flynn Design on the phone and they said ‘no they are not wrong.’

J. Febo asked, “Based on the drawings, and looking at the furthest point of the fence, what is the distance from Cypress Dr. to the fence? What is considered the front yard?” Trevor Flynn was researching an estimate of the distance. Mr. Dean stated that the distance from the center of the road to the fence is further than what is required. J. Pangburn stated he thinks the applicant is referring to the ROW which is approximately 30 feet from the center of the road. J. Febo said based on the site plan provided, the applicant could have a fence from the front plane of the proposed garage. Chairman Hennel stated “as a mitigation to the garage extending 1/3 of the way to what’s required, would be not to have the fence all the way out there.” The Board is here to consider granting a variance for the garage, and the fence still needs to comply with the 30’ setback. The previous variance for the fence is only for the side of the property on Daphne Dr. He emphasized that we were looking for a mitigation or compromise to granting the garage variance, by not having the fence stick so far out. We are trying to have no fences in the front yard. Currently it is 32’ from the corner of the house to the ROW. The front yard setback requirement is 30’. Based on the visuals, the fence on that side is in the front yard. The applicant is proposing to bring the house out, but the fence cannot be closer than 30’ from the ROW. Mrs. Dean asked, “How far outside of that are we now?” Chairman Hennel answered, “I believe you are 8-10’ outside of that now.” Mr. Dean asked if he removes one panel of fence, would that be ok? Mrs. Dean emphasized that backyard space is precious to them with their children. Chairman Hennel suggested they could possibly move the fence against the garage to make up a little space lost. However, the fence shall be no closer than 30’ to the ROW facing Cypress Dr.

C. Heinel wanted to clarify with the applicant that a condition of the variance would be: “After construction of the garage, the fence may be no closer than 30’ to the ROW.” The applicant agreed.

D. Schlansker noted that the iron pipe marking the property line is noted on the site plan. The applicant can measure 30’ from that pipe.

### **MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct an expansion of their existing first floor living space, storage, relocating an existing 2 car garage and adding a second-floor master suite at 2 Cypress 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 Attachment 1 - Front Yard Setback.

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 March 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. The addition will add to the value and aesthetics of the current home by utilizing the same design and materials as the current structure also adding to the value of the neighborhood as a whole, as the house sits on the corner at the beginning of the street.
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 addition smaller or alternatively build from the back of the current structure and eliminate the proposed deck. With that being said, it would still be difficult to achieve the applicant's goals when considering the positioning and angle of the current structure.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: No. The 10 foot variance for the front yard is not substantial.
4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community. Finding of fact: Yes. I feel as though the view of the neighbor's house will be impacted due to the angle of the current structure on the property. By adding to the left side of the structure, this will impede on the sightline of the property past them. However, the neighbor most impacted has agreed to the addition and supports the design.
5. Whether there has been any self-created difficulty. Finding of fact: Yes. The choice to build an addition 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.

**Conditions:**

1. The design and materials shall complement the existing house in color and style i.e vinyl siding in a complementary color.
2. No lighting shall be directed onto a neighboring property.

3. Building peripherals (ex. AC unit) shall not be placed on the north side of the structure or in direct view of the neighboring property.
4. Fence on the north side of the property shall be no closer than 30 feet to the right of way.

Chairman Hennel confirmed with the applicant that he accepts the 4 conditions. Applicant replied yes.

**MOTION:**

**Moved by:** J. Febo

**Seconded by:** D. Schlansker

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

**NOES:** 0

**ABSENT:** 0

**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.

**270-273B (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 20 parking spaces. A variance of 10 spaces is requested.

**270-27C (2) Rear Parking Setback:** A minimum of 40ft is required. The applicant is proposing a rear setback of 32.1 ft. A variance of 7.9' is required.

This application was tabled from the February meeting.

D. Schlansker recused himself from this application due to a conflict of interest. Alternate, Joe Vullo will be sitting in on this application.

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 referred to the County. It was deferred to local consideration.

Chairman Hennel asked the applicant if he had any comment to share with the Board. W. Lippmann explained the plan had been revised based on feedback from the Board. They reduced the number of parking spaces being requested to 20, took out the parking spaces in the front, added a curb to the parking lot between Well Now and Chipotle, designated the 5 parking spaces on the south side to be employee only, and extended the sidewalk.

**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 read into the record the motion from the PZC February meeting, asking ZBA to consider the following: 1) attention to the building's exterior, PZC feels the exterior is sterile and boxy and needs attention to color, 2) the applicant has made an attempt to decrease the severity of the variances needed for parking and drive aisles by narrowing the lane and making interior turning more user friendly, 3) applicant has agreed to install safety bars and fencing to protect patrons outside on the patio, 4) the applicant has made an attempt to make it more difficult for those traveling north on Route 50 to make a left hand turn into the southern, right turn only exit.

J. Vullo mentioned that if you eliminate 3 parking spots, you don't need to reduce the size of the parking spaces. W. Lippmann explained that they originally had 7 more spots. After already reducing the total number by 7 they don't feel they can go any lower and still meet the needs of Chipotle.

J. Febo clarified for J. Vullo the designated 5 employee spaces, as well as the shared spaces with Well Now.

**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 2,300 square ft food service restaurant with drive thru at 231 Saratoga Road, Glenville, NY and as identified on tax map 22.11-3-18 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

270-273B (1) parking space dimensions requiring 10'x20'; proposed space of 9.5x18 and variance of .5' width and 2' length

270-273B(2) maximum permitted width of drive aisle of 24'; proposed width of 27.7' & variance of 3.7ft

270-273B(2) maximum permitted width of one way drive aisle of 10'; proposed width of 12' & variance of 2'

270-273C(2) minimum side setback for parking of 10'; proposed setback for only 6.6ft & variance of 3.4'

270 attachment 2 – related to maximum number of allowable spaces of 10 with proposed 20 spaces & variance of 10

270-27C (2) rear parking setback: A minimum of 40ft is required. The applicant is proposing a rear setback of 32.1 ft. A variance of 7.9' is required.

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: With recent changes to the site layout to adhere to front yard setbacks in Town Center, as well as arranging for shared ingress/egress thru signaled intersection, we find that updated site should result in no undesirable changes to the neighborhood or nearby properties

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: Based on the proposed size & style of restaurant, and recent changes to the site layout, parking, and access we find that to accommodate the requested number of spaces would likely necessitate area variances

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

FOR ALL BUT # OF PARKING SPACES: No, based on scope of the project and requested variances are not seen as substantial in nature

FOR PARKING: Yes, the request for double the number of allowable spaces is seen as substantial, but alone should not preclude the granting of the variance.

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, with the shared ingress/egress at the signaled entrance shared with 233 Saratoga Road along w/ revised site plans to comply with greenspace facing Route 50 we find no adverse effect or impact.

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

Yes, these situations are self-created based on proposed plans for use of the site, but alone should not preclude granting of the variance.

The following conditions are imposed for the purpose of minimizing any adverse impact on the neighborhood or community:

- 1) Appropriate easements be filed related to shared ingress and egress with 233 Saratoga Road.
- 2) Strong consideration to the PZC related to final site plan layout for both parcels related to proposed parking spaces along the ingress/egress lane exiting to Route 50.

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

**MOTION (parking space dimensions):**

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

**AYES:** 4 (Hennel, Febo, Suydam, Vullo)

**NOES:** 1 (Peterson)

**ABSENT:** 0

**Note:** B. Peterson explained that one of the most popular vehicles sold is a pick-up truck. They can be close to 16' long. Reducing the size of the parking spaces doesn't give them or vehicles next to them much room to maneuver.

**MOTION APPROVED**

**MOTION (drive aisle width requirement):**

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

**AYES:** 5 (Hennel, Febo, Peterson, Suydam, Vullo)

**NOES:** 0

**ABSENT:** 0

**MOTION APPROVED**

**MOTION (front drive aisle):**

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo



**AYES: 5** (Hennel, Febo, Peterson, Suydam, Vullo)

**NOES: 0**

**ABSENT: 0**

**MOTION APPROVED**

**MOTION (side parking setback):**

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

**AYES: 5** (Hennel, Febo, Peterson, Suydam, Vullo)

**NOES: 0**

**ABSENT: 0**

**MOTION APPROVED**

**MOTION (min # spaces):**

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

**AYES: 5** (Hennel, Febo, Peterson, Suydam, Vullo)

**NOES: 0**

**ABSENT: 0**

**MOTION APPROVED**

**MOTION (rear parking setback):**

**Moved by:** Chairman Hennel

**Seconded by:** J. Febo

**AYES: 5** (Hennel, Febo, Peterson, Suydam, Vullo)

**NOES: 0**

**ABSENT: 0**

**MOTION APPROVED**

**Application of C2 Architecture on behalf of Ryan Lucey, 53 Freeman's Bridge Road, Glenville, NY 12302,** to permit 5 parallel parking spaces along Sarnowski Drive. It is identified on the tax map as parcel # 30.19-5.1

**In accordance with the codes of Glenville, the following variance is being requested:**  
**270-73 C(2) Location of parking areas and spaces:** All parking lots 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. The applicant is proposing parallel parking spaces along Sarnowski Drive and is requesting relief from this requirement.

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

Sent to 20 neighboring property owners with no responses. This was referred to the County. It was deferred to local consideration, with a note that 20' parking stalls are short for parallel parking. A typical standard length for parallel parking is 22' & 24'.

Chairman Hennel asked the applicant if he had any comment to share with the Board. M. Roman was on the line but had 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. B. Suydam stated that in regards to the 5 parallel spots, there is a door located there for tenant #3. It would appear that people there for tenant #3 would use those spots unless directed elsewhere and could create a traffic jam and parking lot nightmare for those using that door. He suggested possibly installing 45 degree angled parking spots with designations as to where people should park.

J. Pangburn explained that DPW did not want angled parking so close to the ROW, due to backing up, snowplowing, etc.

Chairman Hennel asked if any thought had been given to the length of the parallel spots? He noted that navigating the 1<sup>st</sup> spot would be difficult if someone is parked in the second spot. Perhaps a different length should be considered. M. Roman said if they went from 20' to 22' it would eliminate one spot. This size works better for compact vehicles. They would have preferred perpendicular or angled parking.

B. Peterson noted that the parking lines that exist now, closer to Freeman's Bridge Road, seem to extend further into Sarnowski Dr. than what is being proposed. Why can't the proposed lines be less than or equal to what is there now? J. Pangburn said the Planning Board would have to review that.

J. Febo asked what is the width of the parking spots? M. Roman stated the parking spots would comply with the standard width of 10' x 20'.

Chairman Hennel recognized that DPW preferred parallel parking spots to angled parking, however, straight in would give them more spaces. J. Febo calculated that 10' is what DPW is losing pulling straight in.

Chairman Hennel asked M. Burns if angled spots are feasible? M. Burns stated that as long as the length doesn't extend into the Sarnowski Drive ROW than it might be feasible. He realizes that parallel parking is tight in length at 20'. M. Burns stated that they don't have floor plans for possible tenants. The way they calculate required parking is to net out any storage space the tenant has. Once they see that, they may be able to eliminate one space.

M. Roman stated that they do have floor plans and possible tenants. They did take out the storage for tenant #2, but that still didn't put them where they needed to be for parking.

M. Burns commented that 45 degree angled parking can't extend over the property line into the ROW.

Chairman Hennel suggested that if you go 45 degrees and stay out of the ROW, you still have 15' to work with. Part of the challenge is to ensure the sidewalk to the front.

M. Roman explained that there is a 5' sidewalk in the front. They must be 10' from the property line. Angled parking would exceed into the 10' space.

J. Pangburn said they would encroach into the ROW with angled parking. The Highway Department won't allow parking to encroach into the ROW.

M. Burns explained that a variance is still needed tonight regardless if it's parallel or angled parking. The next step would be to approach the Highway Superintendent as to what formal approval would be needed to extend into the street ROW.

J. Pangburn noted a gas line also exists that they are trying to avoid with angled parking.

Chairman Hennel commented that if the decision is to go with parallel parking, there is still a problem getting into the first spot without going into the greenspace.

D. Schlansker noted that although the spots are tight in the parallel parking design, it is still easier to see visually when pulling out because you can see what's coming behind you.

B. Peterson suggested a possible condition that if it's parallel parking it would be for employee only. M. Roman suggested they could label it as compact car parking for the two end spots.

J. Febo discussed possible conditions with the applicant, including planting and maintaining greenery on the Freeman's Bridge side, and labeling compact car parking spaces. J. Pangburn said the greenspace would be part of the site plan approval.

**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 5 parallel parking spaces along Sarnowski drive at 53 Freemans Bridge 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) 270-73 C(2) - Location of parking areas and spaces. All parking lots 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.

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 March 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. The addition of parking spaces along Sarnowski Drive does not produce an undesirable change to the character of the neighborhood and does not affect nearby properties.
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. Due to the size of the lot and the current utilization of the property, there is not a reasonable alternative for placement of additional parking spaces.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: Yes, considering that the applicant is proposing parking spaces with a 0 foot setback. However, when considering the layout of the property and the nature of the use, the substantial dimensions are not representative of the effect the parking spaces will have.
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 property is located in the Freemans Bridge Corridor and will be utilized for the development of businesses. When considering the neighborhood it is located in, there would be no physical or environmental impacts.
5. Whether there has been any self-created difficulty. Finding of fact: No. In consideration of how the building is currently utilized and situated, the applicant has offered a reasonable alternative to capture the needs of parking spaces and development of the property.

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

**Conditions:**

1. The two most Western spaces shall be labeled as compact car only.

PZC Suggestion: The greenery depicted on the property along Freeman's Bridge Road design shall be implemented and properly maintained.

**MOTION:**

**Moved by:** J. Febo

**Seconded by:** Chairman Hennel

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

**NOES:** 0

**ABSENT:** 0

**MOTION APPROVED**

**MOTION:** To adjourn the March 22, 2021 meeting of the Town of Glenville Zoning Board of Appeals.

**Moved by:** Chairman Hennel

**Seconded by:** B. Peterson

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

**NOES:** 0

**ABSENT:** 0

**MOTION APPROVED**

Next agenda meeting: April 19, 2021

Next meeting: April 26, 2021

Submitted by,

\_\_\_\_\_  
Stenographer

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Date

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ZBA Chairman

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Date

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Town Clerk

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Date

FINAL