

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

Monday May 24, 2021

PRESENT: Chairman: David Hennel; Brian Peterson, Barry Suydam

PRESENT VIRTUALLY: Juliano Febo, Dick Schlansker

ABSENT:

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

ALSO ATTENDING VIRTUALLY: Attorney: Courtney Heinel; Melissa Cherubino; Frank Plastini

Chairman Hennel called the meeting to order 7:08 pm.

MOTION: To accept the April 2021 minutes as amended.

MOVED BY: Chairman Hennel

SECONDED: B. Peterson

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

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION CARRIED

MOTION: To accept the May 2021 Agenda minutes as amended.

MOVED BY: Chairman Hennel

SECONDED: B. Suydam

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

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION CARRIED

PUBLIC HEARING

Request to rehear the April 26th decision of the Town of Glenville Zoning Board of Appeals regarding the denied area variance application of, Frank Plastini, 396 Waters Road, Glenville, NY 12302, for the permitting of a 750 square foot detached garage that encroaches past the front plane of the dwelling. This structure has already been constructed. This property located in the Rural Residential/Agricultural zoning district. It is identified on the tax map as parcel # 13.-1-24.3

Letters Received:

Frank Plastini & Nicole Gray – 396 Waters Road

William Gallup – 504 Waters Road

Lynn Steele – 758 Waters Road

Ann Gallup – 504 Waters Road

Tom Clavin – 790 Waters Road

Elif Ipek – 616 Waters Road

? Wheeler – 322 Waters Road

Bob Nobles – 616 Waters Road

Dean Riggi – 2470 Waters Road

Joe Bova – 673 Waters Road

Included with application:

Quicken Loan Appraisals – 2 letters

Many Pictures of applicant's property and neighbors

Exterior Inspection Residential Appraisal Report

Chairman Hennel reviewed Article 270-151 Rehearing of Zoning Board of Appeals' applications. He reviewed the minutes from the April 2021 meeting, noting how Board members voted and why.

B. Peterson addressed legal counsel and asked if the Board is voting to possibly rehear because of a fault in the process at the last meeting or because new information is being presented? C. Heinel noted that it is the applicant's right to request a rehearing. It is not based on anyone's fault, but rather statutory circumstances. The applicant doesn't need to have circumstances to request a rehearing. If the Board does vote to rehear, it can then modify, reject, or accept the original application. B. Peterson asked if they are voting because of the way they handled it or because they are giving the applicant a second chance? C. Heinel stated there has been no allegation of mishandling. Every applicant has the right to request a rehearing.

B. Suydam asked if there had been any significant changes to the application since the last vote? F. Plastini stated that nothing had changed from the original application, except he was sharing evidence that other neighboring properties have buildings in front yards. Chairman Hennel asked the building inspector when town codes changed with regards to Waters Road? He asked what would not allow buildings to be in the front yards of those other properties? J.

Pangburn stated if they are legal non-conforming buildings constructed with other zoning laws in place then they are okay. He wasn't sure when no accessory structures in front yards was enacted. Based on the pictures, all of those are probably legal non-conforming, or if it's an agricultural building for an agricultural use it would be acceptable as well. Chairman Hennel acknowledged the existence of other buildings, but stated the Board has to vote based on current zoning laws.

J. Febo commented that he has served on ZBA for 3 years and he has not seen a metal structure of this size come through for a variance before. He acknowledged that precedent is sometimes looked at and asked if other Board members recall any such requests. Chairman Hennel noted that his memory doesn't remember one, but if it did it would be extremely rare. He also noted that the structures proximity to the road is also considered, not just that it is located in a front yard.

Chairman Hennel mentioned that at the April meeting possible conditions were discussed. He noted that the structure is not on a foundation and is just anchored. If the applicant moved the structure back behind the front plane of the house, a variance is not needed. F. Plastini explained that he can't move it back. There is a drop-off about 17-20' from the back of the building.

B. Peterson confirmed that he has to go back 14'? Chairman Hennel asked the applicant if he can go back 14'? F. Plastini stated that he can't due to the septic system. J. Pangburn explained that he would need a waiver from the County to install a structure over a septic system. He doubts he would be able to get one, regardless if it were traffic grade or not.

J. Febo confirmed that the Board is voting to rehear the application as previously submitted? Chairman Hennel confirmed they are voting to rehear the application. At this time the application has not changed.

Chairman Hennel stated that they are voting only to rehear. If a unanimous 'yes' occurs, then they would need a unanimous vote to overturn. At that point, a new motion to approve the application would be needed with a majority vote. C. Heinel agreed.

MOTION:

I hereby move to submit a motion to 'rehear' a prior decision by this Zoning Board of Appeals In regards to request for area variance submitted by Frank Plastini for property located at 396 Waters Road which is identified as tax map 13.-1-2-4.3

in regard to a prior zoning board of appeals action taken on April 26, 2021 where the zoning board denied that motion to grant an area variance to allow a garage in the front yard of the residence, a use that is not otherwise permitted by town code section 270-96,

The applicant, Frank Plastini, has exercised his right outlined with code section 270-151 to request that item to be reheard by this board.

Note: a 'yes' vote = rehear

A unanimous vote is required to pass

Chairman Hennel asked if Board members need to give reasons for their vote? C. Heinel stated that at this stage a reason is not needed. At a rehearing, reasons should be given.

MOTION:

Moved by: Chairman Hennel

Seconded by: B. Peterson

AYES: 4 (Hennel, Schlansker, Febo, Suydam)

NOES: 1 (Peterson)

ABSENT: 0

Reasons for vote:

Febo: yes

Peterson: no – he feels he looked at the original hearing notes. All 5 criteria were seriously looked at and considered by Board members. The majority of Board members found several criteria did not meet specifications and thus turned down the request for the variance. He feels rehearing it would result in the same outcome.

Suydam: yes – he feels he will stand by his decision at the last meeting not to deny the application. The applicant's willingness to accept options to improve the look of it was considered.

Schlansker: yes – he is hoping additional information will be provided at the rehearing

Hennel: yes – he still feels it is substantial and self-created

MOTION DENIED

Chairman Hennel asked legal counsel what the applicant's options are now. If he moves it to a new location, can he submit a new application? C. Heinel stated that if there is significant change compared to the current application (size, location, materials used), he can submit a new application. The Board cannot rehear the current application as is. J. Pangburn asked if there are any other options besides move it or remove it? C. Heinel restated he can submit significant changes and a new application.

F. Plastini asked how close the structure can be to the septic? J. Pangburn stated it must be 10' from the tank and 20' from the field. J. Pangburn offered to give him a contact at the County for someone to talk to about septic tank location. F. Plastini restated that he was told by someone at Town Hall he didn't need a permit. Chairman Hennel restated that it is still a massive structure.

MOTION: To adjourn the May 24, 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: June 21, 2021

Next meeting: June 28, 2021

Submitted by,

Stenographer

ZBA Chairman

Town Clerk

Date

Date

Date