

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

**Monday July 26, 2021**

**PRESENT:** Acting Chairman: Dick Schlansker, Brian Peterson, Juliano Febo, Barry Suydam, alternate: Joe Vullo

**ABSENT:** Chairman: David Hennel

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

**Dick Schlansker called the meeting to order at 7:00 pm.**

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

**MOVED BY:** J. Febo

**SECONDED:** B. Peterson

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

**NOES:** 0

**ABSENT:** 1 (Hennel)

**ABSTAIN:** 0

**MOTION CARRIED**

**PUBLIC HEARING**

**Application of AJ Signs on behalf of Gordon Heeps, 231 Saratoga Road, Glenville, NY 12302, for Additional signage on the north facing façade of Chipotle. This property is located in the Community Business District. It is identified on the tax map as parcel # 22.11-3-18**

**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 the 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.

D. Schlansker asked the applicant if he had any comment to share with the Board. Tom Wheeler, AJ Signs, stated this is similar to Well Now request for additional signage. As it is located right next door, they would complement each other. Since the Town required the building be so close to the road, the parking is in the back and sides. It will help identify the building as you pull in to the lot.

**D. Schlansker opened the public hearing:**

D. Schlansker asked for comments from the community either in favor of or opposed to the variance application. none

D. Schlansker solicited questions from the Board members. B. Peterson referenced page 3 of the application, which states it will be a non-illuminated wall sign, and page 5 of the application, which states it will be illuminated. Which is it? T. Wheeler clarified it will be an illuminated sign.

J. Febo asked what the total s/f of signage for this property will be, including the shared monument sign? T. Wheeler stated the wall signs are 37.8 each plus the monument sign. J. Febo asked Town officials what is the total allowed? J. Pangburn said the calculation is based on the square linear footage. They are well under that allowable amount. J. Febo then asked when you pull into the lot, is there any arrow indication on the monument sign which building is which business? T. Wheeler stated the monument sign does not indicate which is which.

B. Peterson asked why is the sign going on the south side of the building and not the north side? T. Wheeler stated the client wanted it on the driveway side of the building.

**D. Schlansker closed the public hearing:**

**MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct **additional signage on the north facing façade of Chipotle** at 231 Saratoga 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) **270-69.1(3)C Signs for which permits are required; number; regulations, Placement and number**

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 July 26, 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 sign being requested is on the south side of the new building structure to aid the public in finding the new restaurant. This additional sign will assist with the safety of traffic and the public on Route 50 to find the restaurant as well as those in the shared parking lot with the Well Now.

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 achieve the goal of additional signage for the restaurant, a variance would be needed. This is the third sign, however, one is a shared monument sign in a shared parking lot.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:  
No, the proposed sign falls within the codes and regulations of the Town and will not look out of place. As previously mentioned, this is the third sign on the property. However, one of the signs is a shared sign in a designated shared parking lot.
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 a commercial area where all the signage will not look out of place, and will blend in with other surrounding commercial properties.
5. Whether there has been any self-created difficulty. Finding of fact:  
Yes, this is a self-created difficulty. However, all the benefits outweigh the other considerations.

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

**Conditions: none**

**MOTION:**

**Moved by:** J. Febo

**Seconded by:** J. Vullo

**AYES:** 3 (Febo, Suydam, Vullo)

**NOES:** 2 (Schlansker, Peterson)

**ABSENT:** 1 (Hennel)

**Reasons for vote:**

**Peterson:** 1) It is not a public health building 2) Once inside the parking lot it is insinuated which building is which 3) Heading south you can see the monument sign, with ample time to turn into the lot

**Schlansker:** 1) The situation is self-created 2) Sign requirements set by the Town are adequate

**MOTION APPROVED**

**Application of Razzono Homes on behalf of Mark Di Carlo and Destiny Latimer, 844 Sacandaga Road, Glenville, NY 12302, for the construction of a new single family home. This property is located in the Rural Residential zoning district. It is identified on the tax map as parcel # 8.4-1-2**

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

**270 Attachment 1:1 - Side yard setback-** The Rural residential zoning district requires a minimum side setback of a 50 ft from the property line. The applicant is proposing side setbacks of 29 ft and 35 ft and is requesting two variances of 21ft and 15 ft.

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

Sent to 8 neighboring property owners with one response. This was not referred to the County.

**Letters Received:**

Kristine Weller – 842 Sacandaga Road - opposed

D. Schlansker asked the applicant if he had any comment to share with the Board. Ed Wierzbowski, Razzono Homes, explained that the owners are looking to demolish the current building and build a new home. They would consider turning the proposed garage 90 degrees to reduce the setbacks on each side, or eliminate one entirely on one side. Many houses in the area are larger homes on smaller lots.

**D. Schlansker opened the public hearing:**

D. Schlansker asked for comments from the community either in favor of or opposed to the variance application.

Kristine Weller explained that the three houses in the area used to be owned by one family. She lives on the middle lot, which is the smallest lot. She doesn't want her lot to be smaller than it already is. She understands that property lines will not change, but this large a house built so close to her property line will make hers feel smaller. She also thought the property in question was a HUD home. C. Heinel stated she will look into if it is a HUD home. J. Pangburn stated he was not aware it was. E. Wierzbowski said the new owners paid cash for the property, and own it free and clear.

Shawn Kuczek – 343 Goldfoot Rd – resident of the property adjacent to the bottom of proposed property. She noted there is a ½ acre stock pond. She is concerned with runoff onto her property, as that is sloped land.

J. Vullo confirmed the owner is proposing moving the house back 25' to be in compliance with the front yard setback.

C. Heinel confirmed that the current owners purchased the house from HUD. It is no longer HUD owned, and is now considered private property.

D. Schlansker mentioned that on Googlemaps all three homes are relatively in a line in relation to the road. The new owners are moving the new house back to meet all front setback requirements.

K. Weller referenced the diagram. She stated that she just put a deck on her home last year. Now with the neighbor's house being moved back, they will be able to see her deck.

S. Kuczek asked if there are any regulations for elevation? J. Pangburn stated that the septic will be designed by an engineer, and will consider setbacks, property lines, ponds, wells, etc. He stated that they can't dump water onto your property.

K. Weller stated that the drywell drains onto her property now.

E. Wierzbowski mentioned the size of the lot, taking into account setbacks, the size of the house, the proposed septic and leach fields, the pond. All of these will be looked at by the engineers.

D. Schlansker addressed Town officials regarding replacing the septic system. J. Pangburn stated the existing system would have to be removed before a new one is installed. He also discussed Town codes regarding dimensions from property lines, septic to buildings, etc.

K. Weller asked why the size of the lot was not considered before planning on a house? E. Wierzbowski replied that he can't speak for the owners, however, even an average size colonial with a 2 car garage would probably need variances on this lot. The lot is only 150' across. If you deduct 50' setbacks on each side, that only leaves you with 50' to work with. The lot is also a parallelogram, which is challenging. He stated that the proposed garage is 36' wide. Turning it 90 degrees makes it 24' across the front plane. Another option could be to cut one stall off and make the garage deeper. He also stated that the front of the new house will be behind the neighbor's house.

D. Schlansker solicited questions from the Board members. B. Suydam noted that if you turn the garage and move the whole house 3' over, it eliminates the variance on the south side, leaving only 1 variance on the north side.

J. Vullo asked the applicant if he was willing to amend the application to include turning the garage and eliminating the variance on one side? E. Wierzbowski replied yes. J. Vullo offered another option of splitting the 24' variance on the north side and requesting 12' on the north and 12' on the south.

J. Pangburn stated there are no setback requirements for driveways.

J. Vullo commented that the goal is to minimize the setback variances as much as possible.

J. Febo noted that the current house is closer to the property line than what the applicant is proposing.

B. Suydam referenced a letter that was sent asking that the deck not encroach any more into the setback. E. Wierzbowski explained that the deck has to follow the line of the house. "If the house is 24', so is the deck."

J. Febo noted that shape of the lot and how it slants. He thinks you could make up the setback by adjusting the angle of the house. E. Wierzbowski stated they could adjust the location of the house to minimize encroaching into the setbacks,

J. Febo asked the applicant if he was willing to amend the application to a 24' variance on the north side only, with a condition for the deck? He would like other conditions added to state: no building peripherals on either side of the structure (ex. HVAC units), and no exterior lighting to glare onto neighboring properties. J. Vullo mentioned that by turning the garage, exterior lighting will face the neighbors. C. Heinel stated that it is reasonable to have lighting, but not spotlights. E. Wierzbowski confirmed that the original request was for a 21' variance on the north and 15' variance on the south. Now it will be amended to 24' on the north and 0 on the south.

C. Heinel asked again, "Is the applicant willing to amend the application?" E. Wierzbowski replied yes.

**D. Schlansker 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 **new single family home at 844 Sacandaga 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 Attachment 1:1 - Side yard setback-**. The Rural residential zoning district requires a minimum side setback of 50 ft from the property line. The applicant is proposing side setback of 24 ft and is requesting an amended 26 ft variance on the north side.

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 July 26, 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, it will be a new home and improve the character of the neighborhood. By reducing the area variance to one side, the south side will require no variance.

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, based on the size of the parcel the applicant is constrained to the limits that the lot provides, and they are adjusting the side setbacks to accommodate the south side.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:  
No, by rotating the garage 90 degrees it would reduce the applicant to one variance on the north side.
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, a new home would be an improvement to the neighborhood and community and they are accommodating the side setback variance on the north side.
5. Whether there has been any self-created difficulty. Finding of fact:  
Yes, based on the size of the new home it could be smaller or rotated. However, it is a new and much improved building lot.

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

**Conditions:**

- 1) Rotate the garage 90 degrees and shift the building 3' to the north**
- 2) No permanent structure shall be located closer than 24' to the northern property line (ex. Deck)**
- 3) Peripherals to be located on the east side only**
- 4) No exterior lighting glare onto neighboring properties**

**MOTION:**

**Moved by:** B. Suydam

**Seconded by:** J. Febo

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

**NOES:** 0

**ABSENT:** 1 (Hennel)

**Reasons for vote:**

**Febo:** wished to thank the applicant for his willingness to move the building further away so as to have no impact on the south property.

## **MOTION APPROVED**

**Application of Ronald Bova, 65-69 Saratoga Rd, Glenville, NY 12302, for the construction of an office complex, which consists of two 6,000 sf two-story structures with 34 surface parking spaces. This property is located in the Professional Residential and Suburban Residential zoning districts. It is identified on the tax map as parcel # 22.18-2-37. & 22.18-2-36.1**

**In accordance with the Codes of Glenville, the following variances are requested: 270 Attachment A, parking ancillary to offices located on the Professional Residential portion of the parcel.** The parcel is split zoned. Offices are located on the Professional Residential portion. The applicant requests an area variance to construct parking ancillary to offices on a corner of the parcel that is zoned Suburban Residential. Parking is permitted in SR at 1 per 250 gfa for roadside stands while offices (a permitted use in PR) require parking at a rate of 1 per 350 gfa.

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

Sent to 44 neighboring property owners with one response. This was referred to the County. It was received back on 6/21/21. No comments included.

### **Letters Received:**

Richard Usas – 1 Miracle Lane

D. Schlansker asked the applicant if he had any comment to share with the Board. Ron Bova, engineer, resides in the Return subdivision, adjacent to the proposed project. This has been in the planning process since 8/19. During COVID, improvements were made to the proposal. He would like to emphasize that the proposal will not create an undesirable change or a detriment to the neighborhood. The buildings will be built with brick and block, designed to fit in with the topography of the property. They are designed into the slope of the property, so from Miracle Lane they will appear as one story buildings, and from Route 50 they will appear as two story buildings. He took great pains to make sure the buildings fit into zoning codes and were architecturally suitable. He is purchasing the adjacent lot from Mr. Del Sotto. The abandoned home on the property will be demolished. He has legal access to the parking lot through Dover Pl. He stated the proposed uses, as configured, are more conforming, and make use of the Professional Residential portions, gaining street access to Miracle Lane for the proposed single family home.

### **D. Schlansker opened the public hearing:**

D. Schlansker asked for comments from the community either in favor of or opposed to the variance application.

Richard Usas – 1 Miracle Lane – sent in a letter to the Board with questions and would like answers. J. Vullo confirmed they had received his letter. R. Usas asked what a 270 attachment



(a) is? J. Pangburn stated it is approved uses and required parking according to Town code. C. Heinel explained that the office buildings are not in need of variances. They are zoned correctly. The applicant is here for a parking variance that is extending into the SR zone. R. Usas stated he can't identify where the variance is located or how it will impact the views to his lot. He asked how many parking spaces are there? Has the plan been approved for construction of an office complex? C. Heinel explained that the applicant is here to apply for an area variance for parking. If he gets approval for this, he will then go to Planning and Zoning for project review. R. Bova stated that the buildings are approved. He is here for parking. He also noted that the proposed single family home will be between the proposed office buildings and Mr. Usas' house. The existing home is on the 'Z' shaped lot. The proposal is an improvement to the configuration of the lot. Mr. Usas' views will not be impacted.

C. Heinel asked how many spaces will be located on the 'Z' shaped lot? R. Bova replied 9 spaces. He then showed ZBA members and the community residents the drawing with the office buildings, parking and proposed residential single family lot.

J. Febo noted that he has less spaces than he should have for this zone. He is not asking for more spaces. The Board is not voting tonight on how the parcels are zoned, only on the number of parking spaces. R. Bova clarified for community members the two zones (Suburban Residential and Professional Residential).

Nick Piccirillo – 8 Miracle Lane – asked if they were proposing a buffer to Miracle Lane? R. Bova explained that the parking in the Professional Residential zone is allowed. The overall plan will go before Planning and Zoning next. J. Vullo explained he needs ZBA approval first before he can go to Planning and Zoning.

R. Usas asked if there will be more opportunity for neighbors to have influence? C. Heinel replied yes, at the Planning and Zoning meeting.

R. Usas questioned the mention of roadside stands. C. Heinel explained certain uses are allowed in certain zones. "It is referenced here because they are the parking references, we are going off of for his variance request."

Peter Cospito – 12 Glorious Lane – Return Development – in favor

D. Schlansker asked legal counsel to state specifically what is being requested. C. Heinel explained this is a split zoned lot (Professional Residential and Suburban Residential). The office buildings on the Professional Residential lot are allowed. He needs more parking than will fit on the Professional Residential lot. Parking is needed on the Suburban Residential lot, and is allowed by Town code. He is requesting less parking than is required. The variance he is requesting to have to less parking than is required in a SR zone.

D. Schlansker solicited questions from the Board members. J. Febo was calculating the number of parking places in the SR zone. What is the number required for the whole project? J. Pangburn stated he needs 35 total spaces. D. Schlansker noted he's providing 34 total, 10 of them are in the SR zone. J. Pangburn calculated the applicant can have a maximum of 48 spaces total and a minimum of 35. He is providing 34. He is short of what is required of office

buildings of that size. J. Febo confirmed that if ZBA approves this, he is only 1 spot short of what's required. D. Schlansker asked if the 10 spaces in the SR zone need approval? C. Heinel stated that parking is allowed in SR zone. The use is not allowed, but parking is allowed. J. Vullo asked if the applicant adds one more space does he need a variance? C. Heinel stated that the applicant will have to add one more space or need a second variance. J. Vullo asked the applicant where he would put that additional space? R. Bova said he would fit it into the PR zone.

C. Heinel asked the applicant if he would be willing to amend his application to include one more parking space, for a total of 35? R. Bova replied yes.

D. Schlansker asked for clarification on what they are voting on. Is it the 10 spots in the SR zone? C. Heinel explained that they realized the applicant actually needs 35 parking spaces minimum. He has to add one or add another variance. J. Vullo asked how many is required in SR zone for him not to need any variance? He is currently proposing 9. J. Pangburn stated the calculation is based on use and s/f.  $12,000 \text{ gfa (gross floor area)} - 6000 \text{ per building} / 250 = 48$ . He needs 48 spaces on total lot when using the rate of 1 per 250 gfa. J. Vullo confirmed that code states 1 for 250 gfa, and he is asking for 1 for 350 gfa. C. Heinel explained that the split zone lot is unique. It is based on the SR portion because that is where the variance is needed. He has plenty on the PR zone side and needs more on the SR zone side.

D. Schlansker asked if the Residential Plan Development runs all the way along the north side? R. Bova explained the location of the single family home and the line that separates the Dover PI condominiums from the Professional Residential zone. D. Schlansker emphasized that it's essentially 3 different zones. He wanted to clarify where the Residential Plan Development zone buffers the Suburban Residential zone. R. Bova said the piece along Miracle Lane is zoned PR.

J. Febo asked if there was other access to the parking lots other than off of Route 50? R. Bova stated that it is not shown on the map, but he has legal access on the north side. J. Febo asked if he was proposing to use that access? R. Bova replied no. J. Febo asked the Board if we should condition approval with no access from SR side? C. Heinel clarified that the condition would be to not have open access through the Suburban Residential side of the property? J. Febo agreed.

D. Schlansker commented that he doesn't like the location of the dumpsters near residential properties. He recognizes that they are not here to vote on that tonight, but would like it considered. R. Bova stated that the Dover PI dumpster is 6' off his property line. He will maintain appropriate setbacks. He would not like to extinguish his legal right to access to the site on the northeast side, but is not planning to allow access. J. Febo restated that he is proposing a condition that the only access to Suburban Residential parking shall be from the Professional Residential parking side. C. Heinel noted that currently as proposed the only access from Miracle Lane is for the proposed single family residence.

B. Peterson asked for clarification on uses. C. Heinel stated that uses are on the PR side, the only thing on the SR side is parking. We are not reclassifying property. The applicant is asking

for relief from the technical requirements from parking code in a SR zone. We are not subverting a use variance.

R. Usas asked if the drawing is public record once this variance is approved? C. Heinel replied yes, you can have access to it now under a FOIL request. R Usas asked if SEQR was needed? C. Heinel stated that will come with site plan review. D. Schlansker stated that DOT needs to approve also. R. Bova stated that he has DOT approval and a negative declaration for SEQR. C. Heinel told him he will need to resubmit that.

Lynn Walkuski stated there has not been a public hearing yet. It was recommended to get variance approval first.

**D. Schlansker 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 office complex, which consists of two 6,000 sf two-story structures with 34 surface parking spaces** at **65-69 Saratoga 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 A, parking ancillary to offices located on the Professional Residential portion of the parcel**. He is asking for relief from the 48 required spots and is proposing 35 total spaces overall for the whole project

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 July 26, 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, this development will be improving that site, and the percentage being asked because of the split zone is minimal.
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, he could reduce the overall size of the buildings, which would require less parking spaces needed.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:  
No, he does have 35 spaces which will accommodate the construction of the two buildings. Even though the numbers of 48 versus 35 sound large, they are really not.

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, because of the topography of the site and the additional residential property which will buffer the Return from the site, it is minimal.
5. Whether there has been any self-created difficulty. Finding of fact:  
Yes, but because of the split zone it has put the applicant in this predicament, making it difficult to achieve his goals.

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

**Conditions:**

**1) Add one parking space for a total of 35**

**2) Suburban Residential parking shall only be accessed from Professional Residential zone area of the parcel**

**MOTION:**

**Moved by:** D. Schlansker

**Seconded by:** B. Suydam

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

**NOES: 0**

**ABSENT: 1** (Hennel)

**MOTION APPROVED**

**MOTION:** To adjourn the July 26, 2021 meeting of the Town of Glenville Zoning Board of Appeals.

**Moved by:** D. Schlansker

**Seconded by:** J. Febo

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

**NOES: 0**

**ABSENT: 1** (Hennel)

**MOTION APPROVED**

Next agenda meeting: August 16, 2021

Next meeting: August 23, 2021

Submitted by,

---

Stenographer

---

ZBA Chairman

---

Town Clerk

---

Date

---

Date

---

Date

FINAL