

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

Monday August 23, 2021

PRESENT: Chairman: David Hennel; Dick Schlansker, Juliano Febo, Barry Suydam

ABSENT: Brian Peterson

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

Chairman Hennel called the meeting to order at 6:56 pm.

MOTION: To accept the July 2021 minutes as amended.

MOVED BY: D. Schlansker

SECONDED: J. Febo

AYES: 3 (Schlansker, Febo, Suydam)

NOES: 0

ABSENT: 1 (Peterson)

ABSTAIN: 1 (Hennel)

MOTION CARRIED

PUBLIC HEARING

Application of AJ Signs on behalf of the Church of the Immaculate Conception, 400 Saratoga Road, Glenville, NY 12302, for an installation of a LED digital display sign. This property is located in the Professional Residential Zoning District. It is identified on the tax map as parcel # 15.16-1-11.1

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

270-68.3 B Illumination. Signs known as "digital billboards," "electronic display panels" and similar LED digital-advertising displays shall be prohibited, with the exception of price signs on fuel pumps as required by applicable state and/or federal laws. A variance to allow the installation a prohibited LED sign is being requested.

J. Febo read the application and the review factors for the variance requests into the record.

Sent to 63 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel asked the applicant if he had any comment to share with the Board. Tom Wheeler, AJ Signs, stated they are looking to replace the old message board behind the church parking lot. He is aware of town codes regarding LED signs, but feels this is a different situation because it is 318' from the road, not used for public advertising or direction off of Route 50, and is for information purposes for parishioners. The church is looking to use the sign to update mass times/confession times. They can dim it down to about 5% during the daytime hours and ramp it up at night. They can shut it off completely at certain times of night. It is strictly to get information to parishioners.

Chairman Hennel opened the public hearing:

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

Chairman Hennel solicited questions from the Board members. He asked if the sign would be visible for on premises only, once you enter the property? T. Wheeler indicated the location of the sign on the diagram, emphasizing its distance from the road. Chairman Hennel noted that the Town is very clear that no digital signs are permitted anywhere. However, since it is so far off the road, it can be considered.

D. Schlansker asked if the Board could state specific hours for the sign to be turned on? Chairman Hennel replied yes. Tom Bigos, from Immaculate Conception Church, agreed to this condition, but asked that it not be turned off before 10 pm due to nighttime meetings. The sign will be facing away from the church and not pointed at any residence. He felt 6am – 10pm would be acceptable for it to be on. B. Suydam asked if this would be Mon – Fri or Sat and Sun also? T. Bigos replied it would be all week.

D. Schlansker asked if the only other sign on the property is the monument sign by Route 50? T. Bigos stated that the main monument sign only states that it is the church. It does not indicate mass times or confessional times. T. Wheeler confirmed the monument sign is the only other sign on the property.

Chairman Hennel noted that if this variance is granted it would be for this sign in this location only. It cannot be moved to a different location.

D. Schlansker noted that on Google Imaging you can't even see the current sign in this location.

J. Febo noted that because the sign will be for internal use and not "way finding" it is easier for ZBA to look at this application.

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 the Church of the Immaculate Conception at 400 Saratoga Road in the Town of Glenville, New York; and the applicant having applied for a sign variance with regard to **270-68.3 B Illumination**. Signs known as "digital billboards," "electronic display panels" and similar LED digital-advertising displays shall be prohibited, with the exception of price signs on fuel pumps as required by applicable state and/or federal laws. A variance to allow the installation a prohibited LED sign is being requested.

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, and after having considered:

1. The particular hardship or difficulty to the petitioner if the variance is denied. Finding of fact: The sign that currently exists is not digital. This will allow them to notify parishioners of scheduling changes within the church.
2. The magnitude of the variance being sought
Finding of fact: Based on the setback and its size, it would benefit parishioners attending services, as long as the size stays the same.
3. The visual impacts to the immediate neighborhood if the variance is granted.
Finding of fact: The sign is approximately 318' off of the road and the setback would have minimal effect on individuals operating motor vehicles. The sign is more for internal purposes.
4. If the hardship or difficulty has been self-created by the applicant.
Finding of fact: A sign already exists. The applicant is simply upgrading to a more modern and more popular way of messaging the public, in a more timely manner as opposed to the antiquated sign that currently exists, which underutilizes technological advancements.

Now, therefore be it resolved that this application for a sign variance be granted.

Conditions:

- 1) Light levels are adjustable**
- 2) Replace the existing conforming sign with proposed LED sign that is of the same dimensions and the same location, not to be moved**
- 3) The sign will be turned off from 10pm-6am**

MOTION:

Moved by: B. Suydam

Seconded by: D. Schlansker

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

NOES:

ABSENT: 1 (Peterson)

Reasons for vote:

Chairman Hennel: The town is clear on not allowing digital signs, but because it is internal to the property and not visible to traffic, he is ok with this one.

MOTION APPROVED

Application of Markus Ricks, 13 Horstman Drive, Glenville, NY 12302, for the construction of a 6 ft fence in a front yard. This property is located in the Suburban Residential Zoning District. It is identified on the tax map as parcel # 30.10-1-6.1

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

270-52 C-. Fences - Residential Uses. Fences on residential properties shall not exceed four feet in height in the front yard. The parcel is a corner lot and has two front yards. The applicant is proposing the construction of a 6 ft fence in the front yard located on Arden Rd. A variance of 2 ft in height is being requested.

J. Febo read the application and the review factors for the variance requests into the record.

Letters received (presented by applicant):

Letter in support signed by: David McGinnis – 2 Arden Rd

Rick Frederick – 15 Horstman Dr.

Wayne & Annette Kristel – 9 Horstman Dr.

Sent to 40 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel asked the applicant if he had any comment to share with the Board. M. Ricks showed the Board pictures of the stakes in the ground, as well as presented signatures of neighbors in support of the proposal. Chairman Hennel asked where are the stakes in relation to the flags? M. Ricks stated that the yellow flags are in front of the stakes, closer to the house.

Chairman Hennel opened the public hearing:

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

Chairman Hennel solicited questions from the Board members. He asked the applicant to confirm the measurements of the fence in relation to the edge of the road and center of the road, as well as the house. M. Ricks stated the edge of the side of the house where the garage

door is located is 50' to the edge of the pavement and 65' to the center of the road. The distance from the middle of the road to where the fence would be is 30' back.

J. Pangburn stated that it is a 60' ROA. He estimates it would be 30' from the center of the road, so he is putting this right on the property line. DPW will have to mark this to verify no interference with utilities. Yellow flags will mark the gas lines. DPW usually uses white paint.

Chairman Hennel appreciates the photos of property and neighboring lots. He noted that some may have installed fences prior to zone changes. One neighbor is zoned differently, where a higher fence is allowed. He emphasized that we try to be a community of neighbors, not a community of fences. He feels this fence has a high impact on the one neighbor (2 Arden), as they will see it as they walk out their door. He explained that the applicant is currently allowed a 6' high fence in the back yard and a 4' high fence in the front yard. Have you considered limiting the length of the fence? M. Ricks stated that he did consider tapering the fence to 4', but feels it would defeat his objective. He stated he has a great relationship with his neighbors and doesn't feel it has a detrimental impact to the community.

D. Schlansker noted that ZBA has previously considered applications with solid fences up to 4' high and then lattice for the top section. J. Pangburn explained that the previous application mentioned was solid fence to 5' plus 1' of lattice.

J. Febo mentioned that he is familiar with the area. It contains a ton of traffic, is close to Route 50, and is often used as a cut through road.

Chairman Hennel mentioned that 15' off the edge of the road is really close. He explained that the Board can vote as is, or the applicant can amend the application. M. Ricks stated that the neighbor across the street suggested the fence be closer to the street to keep it in line with the bushes. He originally had the fence moved further back. Chairman Hennel noted he is more concerned with cars driving down Arden Rd. M. Ricks explained that the fence would only come across 56' of his property. More than 90' of his property would have no fence.

J. Febo stated that he thinks this application is a little different than others they've seen. He feels it is not actually a drivable corner, and that the fence would be more of a screening fence, that would not affect traffic. M. Ricks noted that the property to the left contains a line of trees and bushes, and you probably wouldn't see much of the fence.

J. Febo asked if the applicant knew the measurement from the corner plane of the house to Arden Rd? M. Ricks stated it is 30'. J. Febo suggested that the applicant could cut back 1-2 panels of fence, or around 16', to help.

Chairman Hennel asked if the trees are the applicant's or the neighbors? M. Ricks stated they are the neighbors.

D. Schlansker stated that there is significant foliage there. He likes the idea of the fence be located further from the road.

Chairman Hennel asked the applicant if he was willing to place the fence no more than 20' off the house? M. Ricks said yes. It was noted that would put him behind the gas lines. Chairman Hennel asked if the applicant was amending his application to no more than 20' from the front of the house? M. Ricks said yes.

B. Suydam asked about the chain link fence already there. Is the new fence a direct line to the chain link fence? Do any trees have to be removed? M. Ricks stated that the fence will continue where the current stockade fence ends. No trees have to be removed.

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 six foot high fence in the front yard of the parcel facing Arden Rd at 13 Horstman 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) **270-52 C-. Fences - Residential Uses**. Fences on residential properties shall not exceed four feet in height in the front yard. The parcel is a corner lot and has two front yards, one facing Horstman Dr and the side facing Arden Road.

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 August 23, 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, by limiting the encroachment in the portion of the yard facing Arden Rd by no more than 20 feet, the impact to neighboring properties is limited and will be less visible to passing traffic as well as from the view of adjacent front 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: Yes, the applicant is able to fence the remainder of the rear yard with 6' fence and has ability to transition height to 4' when entering the front yard facing Arden Road.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: Yes, but with the applicant amending the application to request that the fence extend no further than 20' in the front yard facing Arden Road, the substantiality is reduced.
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 amended application to limit the amount of fence in the front yard, while allowing for some additional back yard space, will minimize the adverse impact on the neighborhood.

5. Whether there has been any self-created difficulty. Finding of fact: Yes, the situation is self-created.

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

Conditions: Applicant has agreed to amend application and variance is granted where fence may only extend in rear/side yard no farther than 20' from edge of house toward Arden Rd as indicated on drawing.

MOTION:

Moved by: Chairman Hennel

Seconded by: J. Febo

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

NOES:

ABSENT: 1 (Peterson)

Reasons for vote:

Febo/Hennel: Thank you for compromising.

MOTION APPROVED

Application of Frank Plastini, 396 Waters Road, Glenville, NY 12302, for the construction of a garage attached to the principle dwelling with a breezeway. This property is located in the Rural Residential Zoning District. It is identified on the tax map as parcel # 13.1-24.3

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

270 Attachment 1. Minimum Front Setback. The minimum required front setback in the rural residential zoning district is 75 ft. The proposed structure will result in a setback is 58 ft. The applicant is requesting a variance of 17 ft.

J. Febo read the application and the review factors for the variance requests into the record.

Sent to 7 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel asked the applicant if he had any comment to share with the Board. F. Plastini explained that he wants to construct a breezeway with 2x8s and 2x6s and 4 6x6 posts to hold the majority of the weight. The roof will be green, metal siding, similar to roof on garage.

Chairman Hennel opened the public hearing:

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

Chairman Hennel solicited questions from the Board members. He asked if, in regards to exterior materials, he would be willing to put vinyl siding on the garage to match the house? F. Plastini explained that in a short time frame that would be costly. Chairman Hennel asked if the applicant was installing a garage door? F. Plastini stated that he was hoping to do it after the winter. Chairman Hennel emphasized that the visual impact as one is driving up the road is substantial. He asked the building inspector how long a permit is good for. J. Pangburn stated it is good for 1 year.

D. Schlansker asked if the garage structure is in the same spot as the last time he applied for a variance? F. Plastini replied yes, he was creating a breezeway so the garage would not be considered an accessory structure. D. Schlansker noted that the impact is the same as the last application.

Chairman Hennel confirmed it is not on a foundation? F. Plastini replied it is on crusher rubble, which is concrete dust and gravel. D. Schlansker noted that by using 4x4's, it will be secure and unmovable.

B. Suydam asked if prior to getting a permit he needs to submit plans? J. Pangburn explained that in regards to something small like this, he can submit a sketch, but will still need to be reviewed and meet all building codes.

D. Schlansker asked if it needs to meet NYS building codes? J. Pangburn replied yes.

Chairman Hennel asked if it will support a garage door? F. Plastini said yes, but he has opted for no door until he can afford a better one. Chairman Hennel asked about screening? D. Schlansker explained that to make it less visible landscaping is better than vinyl siding, as that would be difficult to attach. Chairman Hennel stated he is still leaning toward vinyl siding to match the house.

C. Heinel asked the applicant if he obtained certification with the metal building? F. Plastini replied yes.

D. Schlansker asked if the breezeway will have siding? F. Plastini stated it is an open breezeway.

Chairman Hennel commented that he is more concerned with the visual impact of the garage.

J. Febo stated that in regards to the previous application most board members questioned the location of the garage. This hasn't changed? F. Plastini stated that he owns 3.5 acres of land, most of which is very sloped. He has to consider the location of his septic and well, and can't block them or make them inaccessible by putting a structure on them. J. Febo asked if this garage is still considered an accessory structure? J. Pangburn explained that he is proposing

attaching the garage to the house, so a different variance is necessary. F. Plastini commented that he is willing to plant vegetation and always planned to add a garage door at some point.

J. Pangburn stated that he is not in favor of ripping apart the current metal structure that was erected by a contractor per specific specifications, possibly compromising it. D. Schlansker stated that it may nullify the certification.

Chairman Hennel asked the applicant if he could install a door within 3 months? F. Plastini stated that he priced them at \$1200 - \$2000. A 16x9 door he should be able to get in 3 months. Chairman Hennel said he would give him 4 months in case of a back order. He also requested vegetative screening no more than 3' apart.

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 breezeway connecting home to garage in front yard at 396 Waters 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 – requiring minimum front yard setback of 75' 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 August 23, 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, with the applicant agreeing to install a garage door on front of structure, and plant vegetative screening on south side of structure, the impact on the neighborhood is minimized.
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, relocation of garage to another portion of the property is possible, but difficult based on topography and other structures such as well and onsite septic.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact: Yes, variance of 17' setback on required distance of 75' is 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: No, with the applicant agreeing to add screening and install garage door to hide interior contents as well as 'finish' the appearance from the road will minimize adverse impact to neighborhood.

5. Whether there has been any self-created difficulty. Finding of fact: Yes, situation is self-created.

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

Conditions:

- 1) Applicant agrees to plant and maintain vegetative screening along the side of the garage facing to the south – to be spaced no further than every 3 feet apart.
- 2) Applicant has agreed to install garage door to match the color and style of the house
- 3) Building permit to be obtained within 30 days and all work to be completed no later than 4 months from issuance of building permit.

MOTION:

Moved by: Chairman Hennel

Seconded by: D. Schlansker

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

NOES:

ABSENT: 1 (Peterson)

Reasons for vote:

Febo: more concerned with the metal structure sticking out, but coordinating the garage door to match house makes it part of the home and appear less visible

Suydam: likes that the applicant is planting arborvitaes to help hide it

Hennel: don't like the metal look, putting vinyl siding on could compromise certification and integrity, vegetative screening helps

MOTION APPROVED

MOTION: To adjourn the August 23, 2021 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: B. Suydam

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

NOES: 0

ABSENT: 1 (Peterson)

MOTION APPROVED

Next agenda meeting: September 20, 2021

Next meeting: September 27, 2021 **(2 days after Oktoberfest, as noted by Chairman Hennel)**

Submitted by,

Stenographer

ZBA Chairman

Town Clerk

Date

Date

Date

HENNEL