

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

Monday September 27, 2021

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

ABSENT: Barry Suydam

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

ALSO ATTENDING REMOTELY: Attorney: Courtney Heinel

Chairman Hennel called the meeting to order at 6:59 pm.

MOTION: To accept the August 2021 minutes as amended.

MOVED BY: Chairman Hennel

SECONDED: J. Febo

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

NOES: 0

ABSENT: 1 (Suydam)

ABSTAIN: 0

MOTION CARRIED

PUBLIC HEARING

Application of Rob Kniese & Associates, on behalf of the Paul Bialahoski 2360 Ridge Road, Glenville, NY 12302, for an installation of a 24 ft x 26 ft garage. This property is located in the RuralResidential/Agrucultural Zoning District. It is identified on the tax map as parcel # 14.1-2-2

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

270-9F (2). Minimum Side Setback - All accessory structures 280 square feet up to 1,200 square feet in size must be located a minimum of 10 feet from side and rear property lines. The Applicant is proposing an 8 feet side set back. A variance of 2 feet is being requested.

270-9D. Height Requirement - No accessory building or structure shall exceed a mean height of 15 feet in a residential zoning district. The Applicant is proposing a 16.5 feet mean height. A variance of 1.5 feet is being requested.

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

Letters received:

Presented by applicant: written in support of application and signed by:

Gregory & Julie Turgeon – 2392 Ridge Rd

Kris Krutz – 2336 Ridge Rd

Included with application:

drawings

Sent to 12 neighboring property owners with no responses. This was not referred to the County.

Chairman Hennel explained the review factors for the variance request. In regards to: 'reasonable alternative' - the garage could be smaller or located in a different area

'substantiality' – Is the request substantial when compared to the requirement? 50% is considered substantial

'self-created' – was the current zoning in place when the property was purchased or have the zoning codes changed?

Chairman Hennel asked the applicant if he had any comment to share with the Board. Rob Kniese, contractor, presented the letter with the neighbor's signatures.

P. Bialahoski, owner of property, explained the assumed location of the leech field and septic system, and why the garage couldn't be placed anywhere else than proposed. Behind the house the land is very wet.

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 inquired about the existing shed. Will it remain or be moved or removed? P. Bialahoski explained that it is a pre-fab shed and will be moved over to where the pool used to be. Chairman Hennel asked about the pad behind the garage? And who the hedgerow belongs to? P. Bialahoski explained the pad on the diagram is actually a garden and the hedgerow is his, it will stay, but he would like to lower it. Chairman Hennel asked how much space is between the hedgerow and the garage? P. Bialahoski estimated the space to be 46", wide enough to get the mower through. Chairman Hennel asked if he would agree to maintain the hedgerow? P. Bialahoski agreed to this.

D. Schlansker stated that he would like to see the exact location of the leech field and septic system. P. Bialahoski stated that the previous owner never provided a map of the system or

leech fields. He also mentioned a well located off the front corner of the house. D. Schlansker asked the Building Department to verify the Town code regarding a 10' distance between a building and a septic system. J. Pangburn confirmed this and said if the applicant is closer than 10' he would need a variance from the County. P. Bialahoski stated that the septic cover is easily located. It is the leech fields that are in question. D. Schlansker noted that asking for a 50% variance is a large amount. He feels they need to know where the septic system is located. P. Bialahoski stated that right now the proposed garage is 12' from the existing garage. He offered to move the proposed garage 2' closer to the house, which would still keep him within the 10' minimum.

J. Febo asked what year the house was built? P. Bialahoski replied 1970s.

D. Schlansker reiterated that he has an issue voting on a side yard setback when they don't know exactly where the property line is located or where the septic system is exactly located.

Chairman Hennel noted where the snow load will be located. P. Bialahoski confirmed this. Chairman Hennel confirmed that the garage on the house will stay. The applicant is asking to build an additional garage.

B. Peterson noted that as one is facing the house and looks to the left, that neighbor has a barn in the back. Is the applicant's leech field located that far back? P. Bialahoski replied no. He also noted a stone trench located in front of the house that is there to try and divert water away from the house.

J. Febo asked if the Town would have site plans for the 1970s? J. Pangburn said that if it wasn't built in the last 20 years, they probably would not have them.

B. Peterson asked if the applicant was keeping the circular driveway and would it be blacktopped? P. Bialahoski replied yes to keeping it, but not planning to blacktop it yet. He noted that he would have to cut into it to move the structure 2' closer.

J. Febo was concerned with the neighbor coming out of his house and seeing a wall, but did acknowledge the existing hedgerow.

B. Peterson asked if it could be attached to the house? P. Bialahoski explained that he inquired about attaching a 1 car garage and it was too costly, as much as building a separate two car garage. R. Kniese noted that if they attached it, it would eliminate the driveway and parking between the two structures.

J. Pangburn suggested that the Board could list as a contingency the location of the leech fields. In order to get the permit, he'll have to prove he is 10' from the septic.

Chairman Hennel asked if the proposed garage is closer to the road than the front plane of the house? P. Bialahoski stated that it actually is set back around 5' from the existing garage.

B. Peterson asked if gutters would be installed on the front and back? R. Kniese replied yes. B. Peterson asked if the gutters drain onto the leech fields will it saturate them? R. Kniese replied that they don't believe they are anywhere near the leech field.

J. Febo asked what kind of cap is on the septic tank? P. Bialahoski stated the cap is concrete with metal handles. He also explained that the land has chunks of shale which make it harder to dig and locate the leech fields.

J. Febo noted that a friendly condition will be that no exterior lighting will shine on any neighboring property. P. Bialahoski agreed to this.

Chairman Hennel asked the applicant if he would amend his application to a variance of no more than 3'? The applicant agreed.

A discussion followed regarding not knowing the exact dimensions of the lot, as no survey was done.

D. Schlansker referenced a hand drawn map from a previous addition that was done on the house. He asked the Board how can we vote if we don't know the exact location of the property lines. P. Bialahoski explained that he owns more feet than that map shows.

Chairman Hennel asked what the deed says regarding the distance of his property? P. Bialahoski replied 175'. He also stated that he asked Town officials if he should have the property lines surveyed and they told him to apply for the variance first.

C. Heinel questioned the map being referenced. Chairman Hennel explained there is a discrepancy in dimensions of the lot. If the property line is 43' from the house, and he wants to build a 24' garage, with the required 10' side yard setback he would only need a variance of 1'. C. Heinel noted that the Board would need proof of property lines. We don't want to impose anything that would affect the neighbor's rights. Chairman Hennel noted that the hedgerow will act as a buffer, and the neighbor signed a letter of support.

J. Febo asked if they can condition the variance on providing proof of property lines? Chairman Hennel then clarified that that would be asking for a survey. D. Schlansker stated that if the property line isn't correct, but is indeed further away, the applicant might not even need the variance. C. Heinel asked if there is any possibility the applicant might own less? P. Bialahoski replied, "no, if anything I own more."

There was a discussion about asking neighbors if they own surveys of their land. J. Pangburn mentioned that the neighbor to the south does not. He put up a pole barn previously and did not have a survey. He also noted that accessory structures don't require surveys. Also, property lines are a civil matter, so if the neighbor is ok with it, it's generally ok.

J. Febo questioned the existing shed being 5' from the property line. P. Bialahoski stated that given the size of the shed he only needed to be 5' from the property line.

Chairman Hennel stated that to help mitigate where the property line is, what exactly is the applicant proposing? P. Bialahoski stated that he wouldn't go further into the back yard than the existing garage. He is requesting a 2' variance.

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 24' x 26' garage at 2360 Ridge 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) **270-9F (2). Minimum Side Setback** - All accessory structures 280 square feet up to 1,200 square feet in size must be located a minimum of 10 feet from side and rear property lines. The Applicant is proposing a 8 feet side set back. A variance of 2 feet is being requested, and **270-9D. Height Requirement** - No accessory building or structure shall exceed a mean height of 15 feet in a residential zoning district. The Applicant is proposing a 16.5 feet mean height. A variance of 1.5 feet is being requested.

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 September 27, 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:
With the changes that have been discussed and agreed upon by the applicant, the side yard setback impact to the neighbor to the west or north has been reduced and is now minimal. This application does not have any negative impact to the neighborhood, because of the character of the neighborhood and the topography of the applicant's property.
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 applicant has a very large back yard, but there is an encumbrance with his septic system and a side yard setback from his house.
3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code. Finding of fact:
No, with the changes in the application, the 2' variance is only a 20% reduction in what is required by the Town, making it minimal. The 1.5' in height is also 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:
No, given the Rural area of the neighborhood, as well as the physical characteristics of his property, there is no impact to the neighborhood or community.
5. Whether there has been any self-created difficulty. Finding of fact:

Yes, the applicant could reduce the size of the garage or not build it at all, but it is not substantial.

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

Conditions:

- 1) The 24' garage to be located 10' from the side of the house
- 2) Keep and maintain the hedgerow
- 3) No exterior lighting directed toward the neighbor to the north

Applicant agreed to the conditions.

MOTION (side setback):

Moved by: D. Schlansker

Seconded by: B. Peterson

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

NOES: 0

ABSENT: 1 (Suydam)

MOTION APPROVED

MOTION (height):

Moved by: D. Schlansker

Seconded by: B. Peterson

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

NOES: 0

ABSENT: 1 (Suydam)

MOTION APPROVED

MOTION: To adjourn the September 27, 2021 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: Chairman Hennel

Seconded by: D. Schlansker

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

NOES: 0

ABSENT: 1 (Suydam)

MOTION APPROVED

Next agenda meeting: October 18, 2021

Next meeting: October 25, 2021

Submitted by,

Stenographer

ZBA Chairman

Town Clerk

Date

Date

Date