

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday May 22, 2017**

PRESENT: Interim Chairman: Margaret Huff, Vice Chairman: Joseph Vullo, Dick Schlansker, Jeff Stuhr

ABSENT: Board Liason: David Hennel

ALSO ATTENDING: Attorney: Michael Cuevas; Code Enforcement: Terri Petricca; Stenographer: Jen Vullo

Interim Chairman Huff called the meeting to order at 7:03 P.M. She stated what appeared on the agenda for this evening.

MOTION: To accept the May agenda.

MOVED BY: J. Vullo

SECONDED: D. Schlansker

AYES: 4 (Vullo, Huff, Schlansker, Stuhr)

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION: To accept the April 2017 minutes as amended.

MOVED BY: J. Vullo

SECONDED: J. Stuhr

AYES: 4 (Vullo, Huff, Schlansker, Stuhr)

NOES: 0

ABSENT: 0

ABSTAIN: 0

MOTION CARRIED

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PUBLIC HEARING

Application of Christopher and Mary Breslin, 11 Mohawk Ave, Alplaus, NY 12008 for an **Area Variance** that will allow for the construction of an addition to the rear of the single family dwelling a distance of 6 feet from a detached garage. Property is zoned Suburban Residential and identified on tax map 31.5-1-27.

In accordance with the Codes of the Town of Glenville 270-3 Accessory Building or Structure: the minimum distance between a dwelling and an accessory structure is 10 feet. Therefore the applicants are seeking a variance of 4 feet.

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

Sent to 43 neighboring property owners with no responses. This was not referred to the County.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. The applicant did not.

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application. No response.

Interim Chairman Huff solicited questions from the Board members. She asked if there was ever a variance granted for the garage. The homeowner replied yes, there were three, and would present it if requested.

J. Vullo asked for clarification of accessories on the applicant's diagram. This was further explained by applicant.

D. Schlansker asked T. Petricca what the reason is for the 10' minimum distance in the town codes. She explained. He then asked if there is an additional need for a fire wall. T. Petricca replied that that only applies when the minimum distance is 5' or 3'. Each of these require additional measurements for fire protection. Six feet is no problem.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a proposed addition to the primary residence, at 11 Mohawk Avenue, Alplaus in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the Codes of the Town of Glenville section 270-3 Accessory Building or structure: the minimum distance between a dwelling and an accessory structure is 10 feet. Therefore, the applicants are seeking a variance of 4 feet.

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 the variance results in any undesirable changes in character of the neighborhood or community, or a detriment to nearby properties. Finding of fact:

No, visual impact does appear to be minimal from the front of the dwelling and the rear property view will also be diminished due to an existing structure. Side view will improve due to removal of existing porch

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact:

No this would be required to achieve the desired outcome. Other means would include; not building a first-floor bathroom into the addition, thereby reducing the footprint of the addition or not adding the addition at all.

3. Whether the requested area variance is substantial. Finding of fact:

No, the request for a 4' variance does not encroach on property lines, generally improves the property and removes a structure in poor condition

4. Whether the area variance will have an adverse impact on the physical or environmental condition of the neighborhood or community. Finding of fact:

No, the addition conforms to the footprint of the neighborhood. The new addition will match and align with the existing dwelling and garage.

5. Whether the alleged difficulty is self imposed which is relevant to consider, but does not alone preclude the granting of the variance. Finding of fact:

Yes, the owner does desire a larger living space.

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

MOTION:

Moved by: J. Vullo

Seconded by: J. Stuhr

AYES: 4 (Huff, Vullo, Schlansker. Stuhr)

NOES: 0

ABSENT: 0

MOTION APPROVED

Application of Michael and Kathleen McHale, 10 Hill Street, Alplaus, NY 12008 for an **Area Variance** that will allow for the placement of a new 8' x 14' storage shed in the front yard of Bruce Drive. Property is zoned Suburban Residential and identified on tax map 23.18-1-14.

In accordance with the Codes of the Town of Glenville 270-9, C Location: no permitted accessory use or building shall be located in any front yard. The property is a through lot and has 2 front yards. Therefore the applicant is seeking total relief from this section of the code.

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

Sent to 48 neighboring property owners with no responses. This was not referred to the County.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. Mike McHale, homeowner, explained that they built the garage last year and obtained a variance to build a shed off the garage. It was decided that this would hurt an oak tree located there, so they would now like to move the shed to a different location.

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application. No response.

Interim Chairman Huff solicited questions from the Board members. All Board members mentioned they did drive-bys of the property.

D. Schlansker commented that the home was nicely kept and that the shed wouldn't detract from the neighborhood or property. J. Stuhr and M. Huff agreed.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a new 8' x 14' storage shed in the front yard at 10 Hill Street, Alplaus in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the Codes of the Town of Glenville section 270-9 C Location: no permitted accessory use building shall be located in any front yard. Therefore, the applicant is seeking total relief from this section of the code.

Because the proposed use of the property would be in violation of such restriction or setback 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 the variance results in any undesirable changes in character of the neighborhood or community, or a detriment to nearby properties. Finding of fact:

No, the shed is relatively small in size and will be painted to match the existing house and garage structure. Also, while the Bruce Dr. is a front yard, there is existing foliage to obscure some of the view of the structure.

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact:

No this would be required to achieve the desired outcome. Other means would include; not installing a shed. There is not sufficient side yard for installation.

3. Whether the requested area variance is substantial. Finding of fact:

No, given the two front yards of the home and the existing layout of the property this variance is not considered substantial.

4. Whether the area variance will have an adverse impact on the physical or environmental condition of the neighborhood or community. Finding of fact:

No, the shed is relatively small in size and will be painted to match the existing house and garage structure

5. Whether the alleged difficulty is self imposed which is relevant to consider, but does not alone preclude the granting of the variance. Finding of fact:

Yes, the owner does desire additional outdoor storage.

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

MOTION:

Moved by: J. Vullo

Seconded by: D. Schlansker

AYES: 4 (Huff, Vullo, Schlansker. Stuhr)

NOES: 0

ABSENT: 0

MOTION APPROVED

Application of Stephanie Mirch, 2 Glendale Road, Glenville, NY 12302 for an Area Variance that will allow for the placement of a new 24' round above ground swimming pool in the rear yard. This additional accessory structure will exceed the maximum

square footage permitted in relation to the footprint of the dwelling. Property is zoned Suburban Residential and identified on tax map 15.20-1-30.

In accordance with the Codes of the Town of Glenville 270-9, G, (4) The combined footprint of all accessory structures may not exceed 75% of the footprint of the dwelling. Total footprint of all accessory structures, including the pool, would be 1,594 s/f. 75% of the footprint of the dwelling is 968 s/f. Therefore the applicant is seeking a variance of 626 s/f.

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

Sent to 52 neighboring property owners with no responses. This was not referred to the County.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. Stephanie Mirch introduced herself but had nothing to add.

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application. No response.

Interim Chairman Huff solicited questions from the Board members. She asked T. Petricca how the footprint is calculated and if it includes the square footage of the house. T. Petricca explained it includes the base footprint of the house and all accessory structures, not total square footage.

J. Stuhr asked T. Petricca what the reason is for limiting the total footprint to 75% of the dwelling. She explained it is to regulate accessory structures in relation to the size of the house.

J. Vullo asked for clarification for where the fence would be located. The homeowner verified that the house to the left with the shrubbery is where the fence would be located. Those neighbors have taken down some trees and will be installing a fence this summer.

Interim Chairman Huff asked if the pool will be blocked by the garage. The homeowner replied yes.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect a swimming pool in the rear yard at 2 Glendale Road, Glenville, NY. This requires a variance of 626 sf/excess over allowable 968 sf dwelling footprint.

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 the variance results in any undesirable changes in character of the neighborhood or community, or a detriment to nearby properties. Finding of fact:

No, this above ground pool on each adjacent east and west properties will be shielded by a garage on east and shrubs on west.

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact:

No, there is limited space due to the size of the detached garage.

3. Whether the requested area variance is substantial. Finding of fact:

Yes, the request is an increase of accessory structures footprint by approximately 30% more than dwelling footprint.

4. Whether the area variance will have an adverse impact on the physical or environmental condition of the neighborhood or community. Finding of fact:

No, as stated above the pool is screened and consistent with other yard accessory uses.

5. Whether the alleged difficulty is self imposed which is relevant to consider, but does not alone preclude the granting of the variance. Finding of fact:

Yes, the homeowner elected a large detached garage using most of available accessory structures footprint.

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

MOTION:

Moved by: M. Huff

Seconded by: J. Vullo

AYES: 4 (Huff, Vullo, Schlansker. Stuhr)

NOES: 0

ABSENT: 0

MOTION APPROVED

Application of Devendra Seenarine, 179 Saratoga Road, Glenville, NY 12302 for an Area Variance that will allow for the installation of a new 6' high white

vinyl stockade fence to be located in the front yard. This fence is already installed. Property is zoned Professional/Residential and is identified on tax map 22.11-3-23.

In accordance with the Codes of the Town of Glenville 270-52,B,2 Height – Fences on residential properties will not exceed four feet in height in the front yard. Therefore the applicant is seeking total relief from this section of the code.

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

Sent to 36 neighboring property owners with no responses. This was not referred to the County.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. Devendra Seenarine explained that the project is actually 75% complete. He noted that it is cemented into the ground already. The middle of the fence is open so you can see the house from the road.

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application. No response.

Interim Chairman Huff solicited questions from the Board members. J. Vullo clarified that the height of the fence would be approved at 4 feet. He asked if the homeowner could lower the fence to 4 feet and still leave the pylons. The homeowner replied that he could lower it to just under 5 feet but not all the way to 4 feet. J. Vullo also asked which part of the fence is still not finished. The homeowner replied the lower section.

Interim Chairman Huff asked if the current structure was blocking the front entrance and how far from the street it is located (setback). She wanted to confirm that it was not located in the town ROW. The homeowner responded that 90% of the home can be seen with a 23 feet setback.

T. Petricca advised that DOT should verify the setback and measure if the variance could be granted. If the fence is in the ROW than even a 4 foot fence cannot be installed. She also noted that there is already a violation open for this residence.

D. Seenarine asked what he should do. Interim Chairman Huff responded that he should have the town verify the ROW and then see if he can lower the fence to 4 feet. Otherwise it would have to be removed.

M Cuevas noted that a 15 feet setback from the edge of the pavement is usually allowed.

D. Schlansker expressed that he feels the homeowner could have met all his needs and still met town codes.

J. Vullo acknowledged this hardship for the homeowner but explained that it is the Board's job to enforce the town codes.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect 6' fencing panels in the front yard at 179 Saratoga Road, Glenville, NY.

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 the variance results in any undesirable changes in character of the neighborhood or community, or a detriment to nearby properties. Finding of fact:

No, the fence is already in place. There are two sections with a break and then three sections separated by two small sectioned panels in the middle. The fences set back approximately 15-20 ft from the road (Route 50).

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact:

Yes, the fence panels currently block one parking space and front entry to the house. The homeowner could install 4 foot panels instead.

3. Whether the requested area variance is substantial. Finding of fact:

Yes, no 6 foot fencing is permitted in front yards.

4. Whether the area variance will have an adverse impact on the physical or environmental condition of the neighborhood or community. Finding of fact:

No, the fence panels do not block ingress or egress from Route 50. They provide some privacy to homeowner.

5. Whether the alleged difficulty is self imposed which is relevant to consider, but does not alone preclude the granting of the variance. Finding of fact:

Yes, homeowner installed the fence panels without appropriate authorization.

Conditions: no additional 6 foot panels are to be added to current setup. Middle space of lower fence panels is to be maintained.

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

MOTION:

Moved by: M. Huff

Seconded by: J. Vullo

AYES: 1 (Huff)

NOES: 3 (Vullo, Schlansker, Stuhr)

ABSENT: 0

MOTION DENIED

Tabled from the April meeting:

Application of Peter & Barbara Notch, 57 Swaggertown Road, Glenville, NY 12302 for an **Area Variance** that would allow for a 6' high white vinyl stockade fence to be located in the front yard.

The application and review factors for the variance requests were read into the record at the previous meeting.

Sent to 65 neighboring property owners with no responses. This was referred to the County. A referral from the County was never received and the 30 days has expired, so a vote can take place.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. No

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application. No response.

Interim Chairman Huff solicited questions from the Board members.

A permit from the Highway Supervisor granting permission to extend a 6 foot tall fence 7 ft. 2 in. into the town ROW was submitted.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect a 6 foot high fence located in the front yard (Horstman Street) at 57 Swaggertown Road, Glenville NY

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 the variance results in any undesirable changes in character of the neighborhood or community, or a detriment to nearby properties. Finding of fact:

No, the fence is located to the rear of the property on Horstman Street side and extends approximately 25-28 feet along the rear property line and stops at the line of arborvitae planted along most of the rear property line.

2. Whether the benefit sought by the applicant can be achieved by some other means than an area variance. Finding of fact:

No, homeowner is looking to shield unsightly personal property and debris on adjacent property

3. Whether the requested area variance is substantial. Finding of fact:

No, approximately 3-4 six foot panels versus 3-4 four foot panels which would not accomplish intended goal.

4. Whether the area variance will have an adverse impact on the physical or environmental condition of the neighborhood or community. Finding of fact:

No, homeowner has secured the necessary permit from the Town Highway Supervisor for the portion of fence that extends into the Town ROW. Fence is located a substantial distance from Horstman/Swaggertown Roads, avoiding any impeding of distance views for either road.

5. Whether the alleged difficulty is self imposed which is relevant to consider, but does not alone preclude the granting of the variance. Finding of fact:

Yes, homeowner's desire to block out unsightly view of adjacent property

Condition: the fence is not to be extended any further across the back of the property and the shrubs are to be maintained there.

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

MOTION:

Moved by: M. Huff

Seconded by: J. Stuhr

AYES: 4 (Huff, Vullo, Schlansker, Stuhr)

NOES: 0

ABSENT: 0

MOTION APPROVED

MOTION: To adjourn the May 22, 2017 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: J. Vullo

Seconded by: D. Schlansker

AYES: 4 (Huff, Schlansker, Vullo, Stuhr)

NOES:

ABSENT:

MOTION CARRIED

Next meeting: June 26, 2017

Submitted by,

Jennifer Vullo

Jennifer Vullo
Stenographer

FINAL AS OF 6/26/17