

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday, August 28, 2023**

PRESENT: Chairman David Hennel, Dick Schlansker, Brian Peterson, Barry Suydam and Charles Beers.

ABSENT: None.

ALSO ATTENDING: Attorney: Colleen Pierson, Esq.; Deputy Building Inspector: James Pangburn; Planning Department: Nicholas Chiavini; Stenographer: Kristen Bode

Chairman Hennel called the meeting to order at 7:00 pm.

MOTION: To accept the July 24, 2023 minutes. The minutes were approved unanimously.

MOVED BY: Charles Beers

SECONDED: Brian Peterson

AYES: 4 (Schlansker, Peterson, Suydam, Beers)

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Hennel)

MOTION CARRIED

PUBLIC HEARING

- 1) Application of Shauneen Kuczek, 35 Rosemere Rd extension, Glenville, NY 12302,** for the installation of a 12'x20' shed. This property is located in the Suburban Residential Zoning District. It is identified on the map as parcel # 15.-1-22.

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

270-9c – Accessory uses and structures location. No permitted accessory structure shall be located in any front yard. The applicant is proposing to install a 12'x20' shed in

the front yard. Therefore, the applicant is seeking a variance to install the shed in the front yard.

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

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.

Answer: Rosemere Road Extension is a private road (dead end) with limited traffic. The immediate neighbors to each side and across the street (#33, #36, #38) were contacted and have no objection (see signed statements) to the proposed placement of this shed. Once on site, we plan to paint it to coordinate with existing structures.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: Due to the irregular shaped lot, rear yard fencing and pool fencing, leach field area and garden – the proposed site would be the only viable area.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: Building Code 270-9 does not allow a structure in front of house. We are asking for a side lot placement 37' from front wall of house which would be 135' up our driveway from the road.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: No adverse effect on either.

5. Whether there has been any self-created difficulty.

Answer: Yes – due to the request to approve placement in the front of house.

The application was signed by the property owner on August 7, 2023. Notice of the application was mailed to property owners within 500 feet. This was not a County referral.

--Letter dated August 3, 2023--

"Town of Glenville

Re: Kuczek/Bartholomew Shed Variance Application for 35 Rosemere Road Extension

To: Town Board Members:

I am the neighbor across the street at #36 Rosemere and have no objection to the placement of the proposed shed at the end of the applicant's pull off on their driveway.

Signed by David Schumacher on August 3, 2023 – 36 Rosemere Road Ext.

I am the adjoining neighbor at #33 Rosemere Road Extension and have no objection to the placement of the proposed shed at the end of the applicant's pull off on their driveway.

Signed by Paul Englert on August 3, 2023 – 33 Rosemere Road Ext.

I am the adjoining neighbor at #38 Rosemere Road Extension and have no objection to the placement of the proposed shed at the end of the applicant's pull off on their driveway.

Signed by Mark Hindes – 38 Rosemere Road Ext.”

Chairman Hennel asked if the applicant wanted to add anything to the application.

Shauneen Kuczek stated she brought pictures in.

D. Hennel stated yes, for the record we did receive pictures that show the view of the driveway from the road, the area at the end of the existing pull off and a picture of the shed.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

D. Hennel asked if you're at your front door looking at the road, 33 Rosemere is to the right of you correct?

S. Kuczek stated across the street is 36 Rosemere and at the end is 38 Rosemere.

D. Hennel stated my question is for 33 Rosemere – it appears from an overhead – would the shed placement be in your front yard? Would they see the shed or would it be back further from the plane of 33 Rosemere?

S. Kuczek stated 33 Rosemere is before us, they would not see it.

D. Hennel stated we have a number of items tonight with front yards. A front yard is defined as the front edge of your dwelling to the road. If someone is set back, that

person can have a bigger front yard. I always take a lot of consideration if it's the front yard of your neighbors. In this case, it doesn't appear to be in their front yard.

B. Suydam asked the pictures provided with the rocks in front, is that where it is now?

S. Kuczek stated yes.

B. Suydam asked if the applicant is going to replicate that set up.

S. Kuczek stated probably not the rocks since we're trying to have it flush meeting the driveway.

B. Suydam asked if the shed will sit right on the driveway.

S. Kuczek stated we're going to dig down, probably three (3) inches so when we open the doors its level with the driveway.

B. Suydam asked if electric will be run to the shed.

S. Kuczek stated no – just a solar light.

B. Suydam asked what the applicant is hoping to put in the shed.

S. Kuczek stated a golf cart, lawn mower, snow blower.

B. Peterson stated I can see the area you want to put the shed. Will someone back into the shed where it will be placed? Can the shed be placed next to the garage?

S. Kuczek stated next to the garage slopes down. If we put it there – in back there is a fence with a double gate for us to bring firewood into our backyard. It would block our access to the backyard.

B. Peterson asked in the backing off area where you want to put the shed, it would be after that existing pavement?

S. Kuczek stated yes.

B. Peterson asked the applicant if they're going to paint the shed to match the house color.

S. Kuczek stated yes, to compliment the house.

C. Beers asked the applicant when they can have the paint done by?

S. Kuczek stated we are hoping to before the snow.

D. Hennel stated by November 1, 2023 to be painted.

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 12' x 20' shed located at 35 Rosemere Road Extension, Glenville, NY and as identified on tax map # 15.-1-22 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-9C – Accessory uses and structures location - no permitted accessory structure shall be located in any front yard because the proposed use of the property would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on August 28, 2023, 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: Yes. Allowing this shed to be placed in this area of the neighborhood would change the character of this neighborhood.

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. There are many other places upon this property the shed can be placed.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: Yes. A variance of 37' is a substantial request and one of the largest we've seen on this Board.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No. This will not have an environmental or physical impact.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes.

Where it be resolved, this application for an area variance be denied because 1) it will change the character of the neighborhood. 2) There are reasonable alternatives. 3) The requested variance is substantial. 4) It is self-created.

This is a vote for a denial. A yes vote is agreeing with the denial. A no vote is voting against the denial.

MOVED BY: Dick Schlansker

SECONDED BY: Brian Peterson

AYES: 2 (Schlansker, Peterson)

NOES: 3 (Hennel, Suydam, Beers)

ABSENT: 0

MOTION FAILED

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 12' x 20' shed located at 35 Rosemere Road Extension, Glenville, NY and as identified on tax map # 15.-1-22 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-9C – Accessory uses and structures location - no permitted accessory structure shall be located in any front yard because the proposed use of the property would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on August 28, 2023, 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 applicant has discussed and received approval from neighboring properties related to the proposed location. The shed is to also be located at the end of an existing turnaround and is not considered in the front plane of the adjacent property at 33 Rosemere Road.

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 could choose elsewhere on the property. However, with the topography and other items, the options are limited.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: While this is in the front yard and does require relief from that subsection. As it's not considered front yard of the neighboring property, we find the substantiality is minimal.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No. With the applicant agreeing to maintain the vegetative screening, by not installing electricity which could lead to light pollution and by painting and maintaining the structure to match the color of the home. We find this will not have an adverse effect on the neighborhood.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. This is self-created but that alone should not preclude the granting of the variance.

- CONDITIONS:**
- 1) The applicant agrees to maintain the vegetation and trees between the shed and the property at 38 Rosemere Road.
 - 2) The shed will be painted to match the color of the home no later than November 1, 2023.
 - 3) The building is not to be wired for electricity to minimize any light pollution.

MOVED BY: David Hennel

SECONDED BY: Barry Suydam

AYES: 3 (Hennel, Suydam, Beers)

NOES: 2 (Schlansker, Peterson)

ABSENT: 0

MOTION GRANTED

- 2) **Application of Anthony Stone, 1345 Washout Rd, Glenville, NY 12302**, for the construction of a 48'x64' barn with an attached 28'x34' workshop. This property is located in the Rural/ Agricultural Zoning District. It is identified on the map as parcel# 13.-1-49.2.

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

270-9F (3) – Accessory uses and structures. Accessory structures shall not exceed 2400 square feet in the Rural/ Agricultural Zoning District. The applicant is proposing the construction of a 48'x64' barn with an attached 28'x34' workshop which is 4024 square feet. A variance of 1624 square feet is requested.

270-9c – Accessory uses and structures location. No permitted accessory structure shall be located in any front yard. The applicant is proposing to construct a 48'x64' barn with an attached 28'x34' workshop in the front yard. Therefore, the applicant is seeking a variance to install the 48'x64' barn with an attached 28'x34' workshop in the front yard.

270-9D – Accessory uses and structures. Height. No accessory building or structure shall exceed 15 feet mean height. The applicant is proposing a 48'x64' barn with an attached 28'x34' workshop with a mean height of 22.6 feet. Therefore, a variance of 7.6 feet is requested.

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

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.

Answer: As shown on the survey the new barn will be set back far enough behind my neighbors property with a wooded barrier that it wouldn't be visible from the road. The area is surrounded by trees and the building will look like a typical barn similar to other barns in the area. It will not effect any surrounding properties as it is replacing the existing building and the size is only increasing toward the direction of my house.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: There is not enough land behind my house to build a new barn, my only options are in front of the front plane of the house. The height has been carefully considered as we want to be able to park a motor home in it when not in use. We took advantage of slopes in the land to keep part of the roof lower in our design, however, we cannot decrease the height and be able to accommodate a large motor home. As for dimension, we plan to remove 2 older sheds on the property and fit it all into the nicer looking new barn, which requires more than 2400 sf. There is no attached garage and will be no other accessory structures.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: The variance request are not substantial as compared to the building that is being replaced but it is however slightly larger in an attempt to remove

other storage buildings on property and move it all into a single building with a nicer appearance.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: There will be no adverse effect or impact in the neighborhood. The plan is for a basic barn that is to replace the existing building. The new building will be surrounded by natural trees and vegetation buffer.

5. Whether there has been any self-created difficulty.

Answer: No, replacing the existing building was specifically to avoid creating any difficulty.

Notice of the application was mailed to 15 property owners within 500 feet. This was not a County referral.

--Form letter received from multiple neighbors,

"To Whom it May Concern,

We, the underlined neighbors are writing to express our full support for Anthony Stone's proposed building project located at 1345 Washout Road, Glenville, NY. We have been informed of the plans and have no objections to the construction. We believe this development will be beneficial and have no concerns regarding the impact on our properties or the neighborhood.

Signed,

1201 Washout Road
1487 Washout Road
1423 Washout Road
1367 Washout Road
1293 Washout Road
1271 Washout Road"

-- Letter received from The Weisgerber Family, 1256 Washout Road, Glenville, NY, dated August 25, 2023--

"The Weisgerber Family
1256 Washout Road
Scotia, NY 12302

August 25, 2023

Town of Glenville
Zoning Board of Appeals
18 Glenridge Road

Glenville, NY 12302

Re: Application of Anthony Stone, 1345 Washout Road, Glenville, NY 12302

To Whom it May Concern:

We reside at 1256 Washout Road. Our family has lived on Washout Road for 40+ years and in our current home for 30+ years. We are writing to state our strong opposition to Anthony Stone's request to construct a 48' x 64' barn with an attached 28' x 34' workshop.

Washout Road has always been a quiet, rural road where we've enjoyed raising our children and caring for our grandchild. And especially in our retirement years, we've been able to enjoy sitting on our porch to relax, watch the wildlife and admire the peaceful surroundings. A structure of that size would change that, greatly diminishing the character and beauty of the area. It would leave a giant eyesore in the area as your drive down the road, or even as we sit on our front porch.

And, while we were unable to attend this meeting, we have several questions. What is this structure going to be used for? Why is a barn of that size necessary? Is it going to become a commercial construction site? Is the noise going to increase? Is traffic going to increase? Washout Road is not the place for that.

And we imagine it would likely devalue neighboring properties, including our own.

For these reasons, we are opposed to the construction of this structure, and we ask that you strongly consider the detriment to the area that it would cause.

Thank you,

The Weisgerber Family"

Chairman Hennel asked if the applicant wanted to add anything to the application.

Anthony Stone stated I don't think you're going to see any of it from the road. It will be recreational use. There will not be additional noise. I don't work on engines or anything like that. It's a hobby barn.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Richard Milewski, 1452 Washout Road stated the only objection I have is the location. There seems to be plenty room on either side of the house where he could put this building, rather than in front of the house. That's the only objection I have.

Chairman Hennel asked if there are any questions from the Board.

B. Suydam stated we have a map here. The individual that had the note opposing the project – are they anywhere on this map?

A. Stone asked what was the address?

D. Hennel stated 1256 Washout Road.

C. Pierson asked if they were mailed a notice.

B. Peterson stated 15 property owners within 500 feet.

D. Hennel stated 1256 Washout Road looks like it is to the south.

B. Suydam stated the adjacent neighbors are all on this.

D. Hennel stated they were on the list that was mailed.

C. Beers stated the area you have labeled workshop – talk to me a little about that.

A. Stone stated the way that is set up, the elevation changes. I wanted to replace all our sheds as well. If you look at the drawing, it's in the basement. Above that, it's just going to be my computer stuff.

C. Beers asked a computer to be used for what?

A. Stone stated bitcoin stuff, building computers.

C. Beers asked for business?

A. Stone stated no.

C. Beers stated it looks like a residential.

A. Stone stated no, it's not.

C. Beers stated typically when people come here, they're looking for the relief valve since they've been denied. You're looking for every parameter in the building code to be waived to make it fit. That seems really significant and it looks like you have property where it could be moved and not need to waive every portion of the building code.

A. Stone stated on the other side of my property, if we moved it over there then you're definitely going to see it from the road. I'm not opposed to that but it's still going to be in the front of my house. Also, that's where the septic system is.

C. Beers stated you're permitted 2400 square feet. You're looking for 4,024 square feet. That's a big difference.

A. Stone stated the building that was there was pretty large too. The building I'm replacing – the only thing I'm adding on is that workshop area being 28' by 32'.

C. Beers asked what the dimensions are of the current barn.

A. Stone stated 48' wide x 64' deep. That big part is pretty similar to what was there – to the metal building that was falling down.

C. Beers stated you're looking to add another 26' by 34'.

A. Stone stated yes. That's going to allow me to park a tractor inside.

C. Beers stated the look doesn't fit with the zoning code for the town.

A. Stone stated I think it does. It looks like a barn. I think it looks nice and you won't even see it from the road.

D. Hennel stated you're asking us – even the garage portion of what you're proposing exceeds the 2400 square feet allowed. The garage portion alone is over 3,000 square feet.

A. Stone stated the workshop side of it, yes.

D. Hennel stated the motor home part.

B. Peterson asked is that where the old building was?

A. Stone stated yes.

D. Hennel stated the other option you have – it's not going to be an expedient option but we have seen a lot of people in West Glenville that do want barns. I'm not necessarily opposed to having big barns in West Glenville. Unfortunately, the town has chosen for certain size lots, 2,400 square feet is the max. If you do get denied today, you can come back on a different night and address the Town Board. The position we're in tonight, if we grant this. I appreciate you wanting to clean up the property and putting everything inside. What you proposed looks like an attractive structure, but at the same point if we grant it, what made it unique about yours. If you were within the 2,400 and you were replacing a building on the footprint, the front yard doesn't bother me as much because you are set back. It's massively bigger than what the board has chosen what's

acceptable for that zoning district. I'm not opposed to the Town Board changing that, but based on what they've said now.

D. Hennel asked Jim Pangburn if they increased the allowable size?

J. Pangburn stated yes, in 2020 to 2,400 square feet.

A. Stone stated it's not massively bigger than what I'm replacing. The barn is gone now for safety reasons because it was becoming a dangerous building. Now I'm stuck with no building if I can't go forward with this.

B. Suydam asked how big are the structures that you're consolidating.

A. Stone stated the one shed is about 25 feet long by 12 feet deep. The other shed is about 14 feet by 14 feet. They're on two different sides of the property.

B. Suydam asked what they look like.

A. Stone stated they're both log home style. The long one I want to get rid of is falling down, it's ready to go.

C. Beers asked the applicant if he has any commercial equipment that he keeps in any of the sheds.

A. Stone stated I do heating and cooling work. I have some duck work and stuff that is stored in the sheds but not equipment.

C. Beers asked if he had a forklift.

A. Stone stated I have a tractor. I have some attachments for it.

D. Hennel stated storage containers are only allowed for 90 days. If you have any storage containers – they have to be temporary.

A. Stone stated they're temporary.

D. Hennel stated we wouldn't even put that as a condition because they're not allowed after 90 days.

D. Schlansker stated on July 25, 2023 drawing it shows two containers. Are they no longer going to be there as well if this building was erected?

A. Stone stated they'll be gone. The stuff that was in the building I put into those.

D. Hennel stated even if you get denied, they only get 90 days.

B. Peterson stated when I look at the picture, that would make a perfect in-law apartment. It has a two-car garage underneath, side building you're calling a shop.

A. Stone stated down the road, if I wanted to finish it like that then I might.

B. Peterson stated I don't believe in the Town of Glenville you can.

J. Pangburn stated it has to be attached to the principal structure and share a common entrance with your home.

A. Stone stated I don't want to be building 10 different things.

B. Peterson asked you're putting all this money and work, why are you leaving a dirt floor in the basement.

A. Stone stated in the main part of the barn, eventually I'd like to put radiant heat in there but it's expensive. Hopefully I'd be able to do the concrete floor this year.

C. Beers stated you got a little held up on the idea of an in-law apartment. It's not allowed.

B. Peterson stated if and when it comes to a vote, you have to realize if it's a yes vote, you can't run a business out of there – that can be shut down and you can't use it as a residence.

C. Pierson stated this is a very substantial variance being requested. Not only are they asking for three (3) different variances – one that is 1,624 square feet being requested, the other for the height is 7.6 feet. You have to take into account how substantial these variances are, the fact it is self-created and reasonable alternatives. You know the factors you have to weigh but I want you to take that into consideration and be the forefront of what you're considering when voting.

C. Beers asked if there is a backup plan.

A. Stone stated this is my plan. I worked on this with the architect and some friends from work for a couple years. A few sketches and then I sent it to an engineer.

B. Suydam asked Jim Pangburn if the 2,400 square feet is the flat rate given in that zoning district or is it based on the house, accessory structures.

J. Pangburn stated yes for the rural residential zoning district, it states you can have up to 2,400 square feet for an accessory structure – for one individual accessory structure.

B. Suydam asked if he can build three (3) different structures that add up to 2,400 square feet?

J. Pangburn stated no. As long as he's under the lot coverage for that zoning district, he can build as many as he wants as long as each individual structure is under 2,400 square feet.

B. Suydam asked the applicant if that was an option – building three (3) different barns.

A. Stone stated the problem with that is they would all end up being in front of my house. I have a big pond behind. I can't build anything back there. Replacing the existing building made the most sense because there wasn't water problems there.

C. Beers asked Jim Pangurn if he can go back on that pad from the old building.

J. Pangburn stated as long as he can show me there was a building of that size there. He can place it – same size and location.

D. Hennel stated so there's an option in case that was slightly bigger than 2,400 square feet, you could do it there. You said it was the same size.

A. Stone stated it's a little bit deeper than the building that was there by a few feet and the workshop.

C. Beers asked what's a few feet?

A. Stone stated the new one would be 10 feet longer.

D. Hennel stated that potentially gets you closer since your 48' x 64' is 3,072 square feet. If you take off 10 feet, you're getting closer to the 2,400 square feet which is allowed. If you want bigger, come back to the Town Board and tell them West Glenville wants larger barns. Talk to your neighbors, have them come in and support it and have the Town Board change the rule for everyone. We're just stuck that this is *really* big.

B. Suydam stated since you don't have one now, you have containers and they're only there for 90 days, which is roughly 3 months. That's when the snow starts flying. Where are you going to put that stuff?

A. Stone stated that will become a dilemma soon here. I'll have to rent a garage and move the stuff or put it in the existing shed that's falling down that I'm trying to replace.

B. Suydam stated please do not put them under blue tarps.

D. Hennel asked if anyone else would like to speak in favor of or opposed to the motion.

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 48' x 64' new barn with attached 28' by 34' workshop at 1345 Washout Road, Glenville, NY and as identified on tax map # 13.-1-49.2 in the rural agricultural zoning district in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-F3 permitted size 2,400 square feet, proposed size 4,024 square feet and requesting a variance of 1,624 square feet and 270-9C permitted size cannot be in the front of the house. The proposed size is closer to the road than the house variance being requested is the location and 270-9D permitted size mean height, proposed height is 22.6 feet mean height and the variance requested is 7.6 feet because the proposed use of the property would be in violation of such restrictions and setback requirements of the zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on August 28, 2023, 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 current barn setback is similar to the proposed structure. Trees would provide a natural barrier between property lines. Furthermore, six (6) local residents provided signed approval of the project. I would've greatly liked to hear from the Weisgerber Family who was opposed.

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 existing placement of the current structure provides an open space to erect the new and improved structure. An attempt to move it another spot on the property would make it more visible from the road, potentially not even getting it behind the front plane of the house. There is a pond in the back yard that doesn't make it possible.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: Yes. The three (3) variances requested are substantial, however, the structure proposed would greatly improve the look of the neighborhood and also consolidating roughly 500 square feet of other accessory structures. This would be favorable to the community. The bigger of the two being consolidated is in rough shape potentially causing a hazard to the community or persons.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No. If it was replacing the current structure, which was in a current state of being run down. However, now it has been brought to the attention of the Board that it is gone. In an effort to consolidate the structures on the property that would have a beneficial impact on the neighborhood and community.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. There are very few instances where any change to any property would be considered not self-imposed. However, that should not preclude the granting of the area variance.

MOVED BY: Barry Suydam

SECONDED BY: David Hennel

AYES: 1 (Suydam)

NOES: 4 (Hennel, Peterson, Schlansker, Beers)

ABSENT: 0

MOTION FAILED

3) Application of Brett Daley, 715 Charles Rd, Glenville, NY 12302, for the construction of a 24'x26' garage. This property is located in the Suburban Residential Zoning District. It is identified on the map as parcel# 38.7-6-9.1

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

270-9G(2) – Accessory uses and structures. Accessory structures shall not exceed 576 square feet in the suburban residential zoning district. The applicant is proposing the construction of a 24'x26' garage which is 624 square feet. Therefore, a variance of 48 square feet is requested.

270-9G(2) – Accessory uses and structures. Accessory structures exceeding 276 square feet in the suburban residential zoning district must be located a minimum of 10 feet from all property lines. The applicant is proposing the construction of a structure which will be 6 feet from the property line. Therefore, a variance of 4 feet is requested.

270-9G(4) – Accessory uses and structures. The combined footprint of all accessory structures may not exceed 75% of the footprint of the dwelling. The total combined footprint of all accessory structures allowed is 1189 square feet. The total square footage of all existing accessory structures and the proposed structure is 1439 square feet. Therefore, a variance of 250 square feet is requested.

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

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.

Answer: The variance will not produce a change in the character of the neighborhood or properties nearby.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: The building proposed does not have an alternative location on our property due to existing deck and entrance to house.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: Zoning code requests 10' from the edge of the property and the variance is asking for the garage to be placed 6' from the property edge.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: The variance will not have any adverse effects on the physical or environmental conditions of the neighborhood.

5. Whether there has been any self-created difficulty.

Answer: Yes, there is a self-created difficulty due to the need to store our kids possessions and our vehicles.

The application was signed by the property owner on August 7, 2023. Notice of the application was mailed to 81 property owners within 500 feet. This was not a County referral.

--Letter dated August 4, 2023--

"Dear Neighbors,

We are looking for your approval on removing our current garage structure and replacing it with a new garage that is larger in order to accommodate our family's storage needs. The new structure will be 24' x 26' and will require us to place it within the building code of 10' from the edge of the property line. If you are willing to allow us to move forward with this plan, please sign below showing your approval.

Signed by,
Mary Ferry
Robert Cassella
Raymond Reed
Wayne Van Genderen"

Chairman Hennel asked if the applicant wanted to add anything to the application.

Brett Daley stated we are looking to secure our cars and accommodate our kids' stuff – bikes, two kayaks we'd like to get indoors. Sports equipment and snowblower inside.

Laura Daley stated the garage that is there now is really a glorified shed. No vehicles ever fit in it, barn doors that open. We want to make it look nicer.

C. Pierson stated I want to state for the record, the letter signed by the neighbors does not accurately inform them of what this application seeks to do. It does not say they need a variance. It doesn't fully describe the proposed project but it also doesn't state the fact they will need a variance from the Town Zoning Code. To the extent this is signed by the neighbors, whether they have informed consent, I am skeptical of that I don't believe they are fully aware of the project details.

B. Suydam asked if there is an area variance, don't they all get mailed something?

C. Pierson stated in terms of them signing this letter. That's all I'm talking about.

B. Peterson stated 81 letters were mailed out to neighbors within 500 feet.

C. Beers stated when I read it, whoever wrote that letter took the time to tell the neighbor we're within 10 feet.

L. Daley stated the first one that signed, it's mostly that neighbor. Everyone that signed is everyone right around us. We have open communication with them all the time about being closer to their property line. We've spoken to her. It's not in writing.

C. Beers stated two-thirds of what you came here to get approval to do, you don't call out in the letter. You came for three (3) variances, you told your neighbor about one and left the other two (2) out.

L. Daley stated we knew it had to be within the distance of the property, but the extra variances were added on. We didn't know.

D. Hennel stated the letter does state the size but within the 10 feet - it doesn't state how many feet within it is.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

C. Beers asked what could you change or do differently to not come here again to alter three (3) points of the Town Code.

L. Daley stated one of the codes is the size. We were looking at Curtis Lumbar and they have the garage building kits where its 24' x 26' verses 24' x 24'. I do think the 24' x 24' does fit within the size. We were looking for the extra room to put everything in there. That is something we could change and have the smaller kit as opposed to the two extra.

D. Hennel asked any chance to move it back and over so you eliminate the side setback?

B. Daley stated we do have a tree back there. We moved it over 2 feet towards the deck from where the current garage is to put it more away from the side of the property.

B. Suydam stated just so I'm clear on this – they're asking for four (4) feet and if they went smaller, they'd only be asking for two (2) feet?

D. Hennel stated they were saying 24' x 24' which would make it shorter. It wouldn't effect the side.

B. Suydam stated no matter what they're building it would stay six (6) feet.

D. Schlansker stated it would help with one of the variances requested for the size.

B. Peterson asked how the square feet is calculated.

J. Pangburn stated it's based on the size of the home – 75% of the footprint of the home.

D. Hennel asked even though it's a two-floor home, it's based on the footprint of the home?

J. Pangburn stated yes, the foundation.

D. Hennel stated part of what's happening with the lot coverage is you have a lot of stuff. Your deck is counting as extra, the pool is counting as extra and the patio is not. If it did, you'd be even higher. Granted, you're making use of your property but that's one of the things they look at.

D. Hennel asked do you want to go back to Curtis Lumbar or go back and look at the yard to see if there's a way to move it, so you no longer need the side setback or do you want us to vote based on what you have proposed now?

L. Daley stated we'd be willing to go with the smaller so it would eliminate that variance but for me, I feel like it would take away from the useable space in our backyard if the garage was back further.

D. Hennel stated to me, the 24' x 26' isn't that big of a deal to me because if you make it shorter, you're not going to see it driving down the road. You're still going to be close to the neighbor. Driving down the street there, you do have a lot of houses with a lot of buildings that are close, granted a lot of that probably predates Zoning but that's the rule.

C. Beers stated I would like to highlight per the drawing, I'd like to think it was done innocently, but the setback to the property line is not shown anywhere near scale compared to the dimension of the garage.

L. Daley stated we originally submitted our plot plan and I had to white out the garage that was currently there and used a ruler to draw it on. If it's not to scale, I apologize.

B. Peterson stated you have a garage entry door on the back right, could you move it to the back left so it's not opening to your neighbors side so that side is closed off to them – no windows, no doors?

L. Daley stated it would be on the inside to the yard.

C. Beers stated you don't have it shown that way.

B. Peterson stated in the picture it shows the door on the back right as you pull into the garage.

L. Daley stated Curtis Lumbar told us when we purchase the kit, it could be anywhere.

C. Beers stated when you come here, that should be reflected. To us that's what you're doing.

D. Hennel stated if a motion is made to grant, you could specify that as a condition that no door to face the property of 717 Charles Street.

D. Hennel asked if the color is going to match the house.

B. Daley stated yes.

D. Hennel asked what the exterior was going to be.

L. Daley stated tan vinyl.

D. Hennel asked if there were any further questions or anyone else wishing to speak in favor of or opposed to the motion.

Chairman Hennel closed the public hearing.

MOTION:

The applicant having applied for an area variance after having been denied a building permit related to the 10 foot of minimum allowed side yard setback of Town Code 270-9G(2) related to the 576 square feet maximum, Town Code 270-9G(2) related to the accessory structure combined footprint greater than 75% of the dwelling footprint and Town Code 270-9(2) at 715 Charles Street, Glenville, NY and as identified on tax map # 38.7-6-9.1 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270-9G(2) Accessory use structure should not exceed 576 square feet in the suburban residential zoning district, accessory use structure exceeding 276 square feet, must be a minimum of 10 feet from all property lines and accessory use structure combined total footprint may not exceed 75% of the total footprint because the proposed use of the property would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on August 28, 2023, 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: The totality of the proposed three (3) variances produce a significant shift in the Town projected zoning goals and encroaches heavily upon neighboring properties. The property appears to accommodate a proposed but slightly modified structure with changes in place with similar use while reducing the neighborhood impact.

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: The parcel allows for a small dimensional change and placement alternatives that would decrease or eliminate the need for variances.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: Yes. The requested variances are significant orders of magnitude in excess of what is allowed in the dimensions. When lot size and alternative placement of the structure is considered as well as functionally several alternatives, this seems to ignore solutions that outweigh potential negative impacts. It is also substantial in that it requires three (3) separate variances of the Zoning Code.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: The variances will have no substantive impact of the environmental conditions in the neighborhood or district. The variances also carries written support from four (4) neighboring landowners effected by the change. The physical area will appear more constricted with the addition of the structure exceeding municipal dimensions.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. The situation is self-created by the applicant in an effort to store their vehicles and their kids possessions. Self-created difficulty should not alone preclude the granting of this variance.

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

MOVED BY: Charles Beers

SECONDED BY: Dick Schlansker

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

NOES: 1 (Suydam)

ABSENT: 0

MOTION APPROVED

- 4) Application of Scotia Industrial Park Inc, 220 Harborside Dr, Schenectady NY 12305, for 300 BelGioioso Blvd. Rd, Glenville, NY 12302, for a subdivision that would result in non-conforming lot coverage and setbacks for an existing building. The existing building will be demolished once the subdivision is completed. This property is located in the Research and Technology Zoning District. It is identified on the map as parcel# 29.00-3-24.1**

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

270 Attachment 1 – Lot coverage: lot coverage shall not exceed 30% in the research and development zoning district. The applicant is proposing a lot coverage of 55.9%. A variance of 25.9% is requested.

270 Attachment (1) front setback: The minimum front setback in the in the research and development zoning district is 50ft. The applicant is proposing a setback of 38.2 ft. A variance of 11.8 ft is requested.

270 Attachment (1) Side setback: The minimum side setback in the in the research and development zoning district is 50ft. The applicant is proposing a setback of 32.7 ft. A variance of 17.3 ft is requested.

270 Attachment (1) rear setback: The minimum rear setback in the in the research and development zoning district is 50ft. The applicant is proposing a setback of 47.5 ft. A variance of 2.5 ft is requested.

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

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.

Answer: Since the building currently exists, granting these variances will cause no undesirable change in the character of the neighborhood nor a detriment to nearby properties.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: Due to the placement of roads in Glenville Business and Tech Park, creating a new lot which would not require area variances cannot be achieved by any reasonable alternative.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: Based upon the nature of the Glenville Business and Tech Park and the proposed demolition of the existing dilapidated building and replacing it with a new building, the requested variances should not be considered substantial.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: The three setback variances are pre-existing. The lot coverage level is pre-existing. The need for these variances is because the applicant requires that the proposed warehouse be located on a separate parcel. These will have no adverse impact on the neighborhood.

5. Whether there has been any self-created difficulty.

Answer: This is a self-created difficulty. Since the applicant requires that the proposed warehouse be located on a separate parcel, and the warehouse was constructed while this was a military base, there is no option but to have the proposed parcel violate setbacks from the existing building.

The application was signed by agent Daniel Hershberg, PE & LS, site engineer on August 16, 2023. Notice of the application was mailed to property owners within 500 feet. This is a County referral.

Chairman Hennel asked if the applicant wanted to add anything to the application.

Daniel Hershberg, PE & LS of Hershberg & Hershberg representing Scotia Industrial Park, stated this is a little different than the other variances heard today. The existing building violates setbacks. We could not make a new lot to match the required setbacks. The building is totally dilapidated and is scheduled to be demolished. This is the first step in the process moving forward. In order to get a subdivision approved, we have to have variances granted. Once a subdivision is approved, the applicant will close on site then we'll move to demolish the buildings and then apply for a building permit to build a replacement building. On the plans I took the liberty of showing in orange the replacement building. That shows it honors all the setback requirements where the existing building doesn't. The applicant requests these variances and although the numbers are somewhat substantial, the fact is they're preexisting and that questions the sustainability.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

D. Schlansker asked if this variance is granted, am I correct in thinking that if they move forward with his orange building in the future, it will meet the current setbacks and there will be no need for this future building to come back to us for variances.

D. Hershberg stated the lot coverage will be less than this existing building so by granting a lot coverage variance. The occupant occupies 55.9% of the site. If you grant these four (4) variances, we will not need the setback variances. The owner indicated they are willing to enter into an agreement or required by the Town to memorialize that the replacement building will be placed so none of the sidelines, front back or rear setback variances will be needed. A coverage variance will be needed because the new building is slightly smaller than the existing building.

D. Hennel asked Colleen Pierson if we can make that a condition but I don't think we can but the fact that Planning and Zoning is going to have to go through the plans and approve them, that is our safety valve. If we grant these, they could technically build a new building just based on our vote. They could replace it with a building the exact same size as what's there.

C. Pierson stated correct, the variances if we were to grant them tonight would run with the land. When they demolish the current building, they could technically build a building that same exact size with the variances we're granting tonight. Again, if they were to build a new building, they would have to go through the site plan review by the Planning Board anyway. We don't need to make it a condition here with the Zoning Board. The applicant coming here to get the variances was the best option. It was the safest option for the Town rather than making an agreement or entering into them promising the Town they would demolish the building after the land was subdivided. It protects the Town more so if they come and get the variance for a building that's going to be demolished anyway.

B. Suydam asked if this property is already purchased by the people that are proposing these variances?

C. Pierson stated no, in order to subdivide it and then for BelGioioso to sell it. They need to subdivide it first but when they subdivide it, that current building that's going to be demolished makes it a nonconforming building once it's subdivided.

B. Suydam asked who are we approving or not approving the variances for – the current owners or the potential owners?

C. Pierson stated it's the current owners but when they subdivide it and sell it, the variance will still run with the land.

D. Hennel stated if they didn't sell it. Say we grant this, they subdivide, and no one wants to buy it, BelGioioso still owns that but it's a separate parcel.

C. Pierson stated BelGioioso isn't the applicant. It would still go with the land.

D. Hennel stated and Planning Zoning Commission would still have to approve any plans in the future.

C. Pierson stated correct.

C. Beers asked if the zoning board can condition demolition.

C. Pierson stated we don't need to. If there's a variance, they don't need to demolish it but you're saying you want it so they actually do demolish it.

B. Suydam asked what if they don't sell it?

C. Pierson stated if they don't sell it, they're not going to subdivide it. They're going to get a grant from the State and part of that money will go towards the demolition of this

building. They just need the State to give them the money before they can go through with the demolition.

C. Beers asked why can't we condition the demolition?

D. Hennel stated give them a year.

C. Pierson stated I don't think that it's necessary because you're granting them the variance.

D. Hennel stated you're granting it with the fact that there's going to be no undesirable change or no adverse impact because you're improving the look of the park by demolition.

D. Schlansker stated if safety is the reason it's being removed.

C. Pierson asked what the reason is the applicant wants to demolish it.

D. Hershberg stated we have to demolish it because the building can't be used as it's current condition. It will cost many more dollars than the value of a finished building to rehabilitate the building. Both buildings are not in good shape at all but 300 BelGioioso Boulevard is in worse condition. New York state is involved. New York state requires each building be on its own separate parcel. Therefore, we have to go through a subdivision. When the subdivision came up for consideration by the Planning and Zoning Commission, they said essentially, they're creating violations of the zoning code when they subdivide it. I would be careful of putting a time constraint of a year since we are dealing with New York State. When you go through a grant program with New York State, sometimes the paperwork can take an excessive amount of time. I don't think a one-year period would give us enough protection. This project only makes sense financially if they get the grant. The grant goes towards demolishing both buildings. This project came about because New York State offered a grant as part of a local grant program.

C. Pierson stated if we make it a conditional, we're back at square one with the Planning Board because we were going to make a Planning Board approval contingent upon them demolishing the building. This is the issue – if we do that and it's subdivided and they don't demolish the building, which is a condition, we have no way to enforce that as a Town. We can't un-subdivide the land, we can't give it back to BelGioioso. It's a done deal. There's no way to enforce it. It protects the Town more to have the Zoning Board grant the variances.

C. Beers asked how does that protect the Town more?

J. Pangburn stated there is no way to estimate that cost accurately for us to do that in house or take on the liability to do that.

C. Pierson stated it's much riskier if you're entering into an agreement like that. It makes everything messier than to grant them the variance for that building.

D. Hennel stated the risk is – it falls through, it sits as a subdivided parcel, like it has for years.

C. Pierson stated also consider the condition of the building. It's not that we're worried that if we approve this, they're going to leave it up and try to make it into a building they're going to rent out. In the condition that it's in, it's not beneficial to them to let it sit there. That was part of the analysis.

B. Suydam asked if the analysis was from contractors?

C. Pierson stated the Planning Board. The condition of the building was factored into what we were going to do. If it was a beautiful building, if it was in any usable shape where they could keep it the way it is and use that, we would be more worried they're not going to demolish it. Instead of entering into an agreement where they hope they demolish it but if they don't, the Town might get paid for the full cost of having to go in and demolish it themselves, that was riskier than saying go about this the right way, get the variances you should be getting on this building as it is now and go that route.

C. Beers stated what I'm hearing is it wouldn't be financially feasible if the state didn't come through. Therefore, we may end up with what we have now.

C. Pierson asked what happens if the State reneges and they don't get any grant money?

D. Hershberg stated unless the Town wants to take title of these buildings, demolish them and use them for something else. The whole reason for these New York State grants is to demolish poor buildings and construct new viable buildings. We're going through this process to have that happen. You can't make modern use of the building right now without spending much more than replacing it with a proper building.

C. Pierson stated we asked why can't it be demolished now and that would remove the necessity for a variance but the issue is, it's BelGioioso's land currently, it's not theirs. They haven't bought it yet because it hasn't been subdivided. BelGioioso isn't going to let them come on their land if it's still BelGioioso's to demolish it. BelGioioso isn't going to pay the cost to demolish it if they're going to sell it anyways. We did ask if that was a possibility.

Mark Storti, 9 Barry Lane, Glenville stated this was a Town of Glenville grant. The Town applied for this grant. The Town would not have applied for the grant if they didn't think this project was going to go through.

D. Hennel asked is anyone else would like to speak in favor of or opposed to the motion.

Chairman Hennel closed the public hearing.

MOTION:

The applicant having applied for an area variance after having been denied a building permit at 300 BelGioioso Boulevard, Glenville, NY and as identified on tax map # 29.00-3-24.1 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270 Attachment 1 Lot Coverage shall not exceed 30% in the research and development zoning district, where applicant is proposing lot coverage of 55.9%, which is a variance of 25.9% being requested. Secondly, 270 Attachment 1 related to front setbacks, the minimum required is 50 feet, the applicant is proposing 38.2 feet, which a variance of 11.8 feet is requested. Lastly, 270 Attachment 1 Side setback, the minimum required is 50 feet, the applicant is proposing 32.7 feet, a variance of 17.3 feet is requested because the proposed use of the property would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on August 28, 2023, 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 request of subdividing an existing parcel within the business and technology park for purpose of demolishing old buildings. No change to the neighborhood as a result of the subdivision. The parcel is fully within the park and the research and development zoning district. Any redevelopment of the parcel will require PZC approval with final site plan adherence to setbacks and lot coverage will be determined and enforced as appropriate.

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 creation of the new lot with the existing building does not allow for alternatives and subdividing the parcel within the borders of the existing roads.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: The lot coverage variances are substantial; the side setback is not.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No. The creation of the subdivision lot of the existing building offers options for demolition of the building and redevelopment of the site. The request has potential to improve the environmental conditions of this neighborhood.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. It is self-created but the development and layout of the business and technology park and the creation of building that remain on the new lot predate the current zoning regulations as they were part of a military base.

MOVED BY: David Hennel

SECONDED BY: Dick Schlansker

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

NOES: 0

ABSENT: 0

MOTION GRANTED

5) Application of Scotia Industrial Park Inc, 220 Harborside Dr, Schenectady NY 12305, for 405-406 Amsterdam Rd, Glenville, NY 12302, for a subdivision that would result in non-conforming lot coverage and setbacks for an existing building. The existing building will be demolished once the subdivision is completed. This property is located in the Research and Technology Zoning District. It is identified on the map as parcel# 29.00-3-25.1

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

270 Attachment 1 – Lot coverage: lot coverage shall not exceed 30% in the research and development zoning district. The applicant is proposing a lot coverage of 56.2%. A variance of 26.2% is requested.

270 Attachment (1) front setback: The minimum front setback in the in the research and development zoning district is 50ft. The applicant is proposing a setback of 9.7 ft. A variance of 40.3 ft is requested.

270 Attachment (1) Side setback: The minimum side setback in the in the research and development zoning district is 50ft. The applicant is proposing a setback of 37.7 ft. A variance of 12.3 ft is requested.

D. Hershberg waived the right to have the application and the review factors read into the record.

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.

Answer: Since the building currently exists, granting these variances will cause no undesirable change in the character of the neighborhood nor a detriment to nearby properties.

2. Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an area variance.

Answer: Due to the placement of roads in the Glenville Business and Tech Park, creating a new lot which would not require area variances cannot be achieved by any reasonable alternative.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Answer: Based upon the nature of the Glenville Business and Tech Park and the proposed demolition of the existing dilapidated building and replacing it with a new building, the requested variances should not be considered substantial.

4. Whether the area variance will have an adverse impact on the physical or environmental conditions of the neighborhood or community.

Answer: The two setback variances are pre-existing. The lot coverage level is pre-existing. The need for these variances is because the applicant requires that the proposed warehouse be located on a separate parcel. These will have no adverse impact on the neighborhood.

5. Whether there has been any self-created difficulty.

Answer: This is a self-created difficulty. Since the applicant requires that the proposed warehouse be located on a separate parcel, and the warehouse was constructed while this was a military base, there is no option but to have the proposed parcel violate setbacks from the existing building.

The application was signed by agent Daniel Hershberg, PE & LS, site engineer on August 16, 2023. Notice of the application was mailed to property owners within 500 feet. This is a County referral.

Chairman Hennel asked if the applicant wanted to add anything to the application.

D. Hershberg stated the lot is limited by Avenue C, Avenue B and a parking lot. These variances are subject of the existing building that violates those codes. The existing

building is currently not in use. To put it into use, it would require significant improvements by the applicant. The goal is to demolish it using the local grant from New York State. Once it's demolished, they'll build a state-of-the-art building and we'll work with the planning and zoning commission. There is only three (3) variances required here. One for the lot coverage, one for the front setback, that's substantial and for the side setback.

Chairman Hennel opened the public hearing.

Chairman Hennel asked if anyone wishes to speak in favor of or opposed to the motion.

Chairman Hennel asked if there are any questions from the Board.

B. Suydam stated whether these variances would have an adverse effect – it says there's two (2) setback variances. Are there three (3) on this one?

C. Pierson stated no – two and the lot coverage.

Chairman Hennel closed the public hearing.

MOTION:

The applicant having applied for an area variance after having been denied a building permit at 405-406 Amsterdam Rd, Glenville, NY and as identified on tax map # 29.00-3-25.1 in the Town of Glenville, New York;

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville 270 Attachment 1 Lot Coverage shall not exceed 30% in the research and development zoning district, where applicant is proposing lot coverage of 56.2 %, which is a variance of 26.2 % being requested. Secondly, 270 Attachment 1 related to front setbacks, the minimum required is 50 feet, the applicant is proposing 9.7 feet, which a variance of 40.3 feet is requested. Lastly, 270 Attachment 1 Side setback, the minimum required is 50 feet, the applicant is proposing 37.7 feet, a variance of 12.3 feet is requested because the proposed use of the property would be in violation of the dimensional zoning regulations of the Town; and

The Board having considered the application, after a full and complete public hearing on August 28, 2023, 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 request of subdividing an existing parcel within the business and technology park for purpose of demolishing old buildings. No

change to the neighborhood as a result of the subdivision. The parcel is fully within the park and the research and development zoning district. Any redevelopment of the parcel will require PZC approval with final site plan adherence to setbacks and lot coverage will be determined and enforced as appropriate.

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 creation of the new lot with the existing building does not allow for alternatives and subdividing the parcel within the borders of the existing roads.

3. Whether the requested area variance is substantial as compared to the lawful dimensions allowed by zoning code.

Finding of fact: The front setback and lot coverage are substantial.

4. Whether the area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding of fact: No. The creation of the subdivision lot of the existing building offers options for demolition of the building and redevelopment of the site. The request has potential to improve the environmental conditions of this neighborhood.

5. Whether there has been any self-created difficulty.

Finding of fact: Yes. It is self-created but the development and layout of the business and technology park and the creation of building that remain on the new lot predate the current zoning regulations as they were part of a military base.

MOVED BY: Chairman Hennel

SECONDED BY: Dick Schlansker

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

NOES: 0

ABSENT: 0

MOTION GRANTED

MOTION: To adjourn the August 28, 2023 meeting of the Town of Glenville Zoning Board of Appeals at 9:20 PM.

Moved by: David Hennel

Seconded by: Dick Schlansker

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

NOES: 0

ABSENT: 0

MOTION APPROVED

Next agenda meeting: September 18, 2023

Next meeting: September 25, 2023

Submitted by,

Kristen Bode, Stenographer

Date

ZBA Chairman

Date

Town Clerk

Date