



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

47 **1. § 270 Attachment 1: Table of Dimensional Regulations.**

48 *Minimum Lot Width in a Professional Residential Zoning District: 140ft*

49 The applicant proposes a subdivision which creates this parcel with 49.5ft of  
50 minimum lot width. Therefore, a variance of 90.5ft is requested.

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52 **2. § 270 Attachment 1: Table of Dimensional Regulations.**

53 *Minimum Lot Size in a Professional Residential Zoning District: 30,000sqft*

54 The applicant proposes a subdivision which creates this parcel with  
55 11,266sqft in area. Therefore, a variance of 28,734sqft is requested.

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57 Brian Peterson read the submitted applications and the review factors for the variance  
58 requests into the record. Note: the two applications are identical in their answers to the  
59 review criteria.

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61 1. Whether an undesirable change will be produced in the character of the  
62 neighborhood or a detriment to nearby properties will be created by the granting  
63 of the area variances(s).

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65 Answer: No, all preexisting for decades.

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

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70 Answer: No, not that we can determine

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

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75 Answer: Somewhat...to present day standards, but reasonable to the standards  
76 of decades ago.

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78 4. Whether the area variance(s) will have an adverse impact on the physical or  
79 environmental conditions in the neighborhood or district.

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81 Answer: No.

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

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85 Answer: No.

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87 The application was signed by Charles Fogg, the property owner, on November 5, 2023.  
88 Notice of the applications was mailed to 61 property owners within 500 feet of the  
89 affected property by the Town. This was a County referral. The County deferred to local  
90 consideration and had an advisory note requesting that utility and access easements  
91 be provided on subdivision plats.

92 No letters were received for or against the application.

93

94 Chairman Hennel asked if the applicant, Charles Fogg (503 Saratoga Road) would like  
95 to add anything to his application

96 C. Fogg replied that his application already explained his reasoning. He added that he  
97 planned on having reciprocal easements for the driveway and for utilities between  
98 the two proposed parcels.

99 D. Hennel asked if those easements had been written yet.

100 C. Fogg replied that he planned to have them written after receiving variances and  
101 other approvals.

102 D. Hennel asked if the Zoning Board of Appeals should impose those as conditions of  
103 approval.

104 Nick Chiavini added that it is important to remember the applications would be  
105 returning to the Planning Board if the variances are approved. His opinion was that it  
106 might be cleaner to recommend those items as conditions to be imposed by the  
107 Planning Board rather than attaching them to the variance.

108 Colleen Pierson, legal counsel for both the Planning Board and Zoning Board, shared  
109 that those items were already discussed by Planning Board and they had already  
110 agreed to impose those conditions during Planning Approval.

111 D. Hennel shared that he would like to add a recommendation to require easements as  
112 a condition of approval by the Planning Board if variances were granted.

113

114 **D. Hennel opened the public hearing.**

115

116 D. Hennel asked if anyone wished to speak for or against either application.

117 No one wished to speak.

118 D. Hennel asked if anyone on the Zoning Board had questions or comments.

119 Brian Peterson asked the applicant if the goal of this subdivision was to sell the  
120 property.

121 C. Fogg answered yes.

122 B. Peterson read a description of the application from the Staff Review provided by the  
123 Planning Dept to confirm the details:

124 *The applicant would like to subdivide this single nonconforming*  
125 *parcel into two non-conforming parcels. The applicant will also be*  
126 *combining a thin parcel to the north of the property with this lot. The primary parcel*  
127 *currently contains 2 homes and at least 2 accessory structures. The frontage width is*  
128 *~60ft (140ft required) and the applicant is seeking to split this into two parcels. In this*  
129 *application, he is seeking to create a parcel with 10.77ft of frontage.*

130 C. Fogg replied that this is all correct.

131 N. Chiavini asked to confirm that the sliver (SBL: 15.8-5-33.2) was a part of the  
132 existing 503 Saratoga Road parcel (SBL: 15.8-5-34). He explained that the two  
133 parcels are drawn as a single parcel on C. Fogg's application. He pointed out that  
134 the area and frontage calculations in the application appeared to be based on the  
135 assumption that those two parcels were combined.

136 C. Fogg replied that he owns the sliver and it was deeded to him in the early 2000s.

137 C. Pierson asked if the deed exchange was informal or if it was officially filed, to his  
138 knowledge.

139 C. Fogg replied that two attorneys were involved and he believed the deed transfer was  
140 recorded and made official.

141 C. Pierson explained that he can own both the sliver and the primary parcel, but they  
142 can still be separate parcels.

143 There was a discussion about whether to table the application and whether Charles  
144 Fogg could prove he owned the sliver at tonight's meeting.

145 N. Chiavini stated that, according to the Schenectady County Tax Map, both parcels  
146 were in C. Fogg's name, so he did not believe that would be an issue.

147 D. Hennel asked if proving ownership could be a condition of approval.

148 C. Pierson replied that she did not believe that to be necessary and that the Planning  
149 Board could address that if needed.

150 C. Pierson asked if procedurally the applicant would need a lot line adjustment prior to  
151 subdivision.

152 J. Pangburn replied that he would ask the Town Assessor tomorrow for any input.

153 C. Fogg insisted that the sliver is not its own parcel and is part of the primary parcel.

154 J. Pangburn replied that the Schenectady County Tax Map shows them as two  
155 separate parcels.

156 N. Chiavini stated that ImageMate, another County Property Inventory Software, also  
157 shows that these were two separate parcels.

158 A discussion occurred about the existing configuration of the parcels and the  
159 ownership of them.

160 C. Pierson said regardless of the configuration, all the sources available showed that C.  
161 Fogg owned the land. She stated that this would certainly have been an easier  
162 application to understand if C. Fogg ensured all parcels were combined prior to  
163 applying for the subdivision and subsequent variances.

164 N. Chiavini asked C. Pierson if the Zoning Board had to worry about procedures leading  
165 up to the subdivision, or if that would fall under the purview of the Planning Board  
166 and Department. He asked to confirm that the Zoning Board was simply reviewing  
167 the final configuration. He stated that while C. Fogg might need to submit for a lot  
168 line adjustment, he did not believe it should hold up the Zoning Board and the area  
169 variance applications.

170 C. Pierson explained that C. Fogg would not be able to proceed with any variances  
171 granted tonight if the sliver was not combined with the primary parcel since the  
172 variances would be for less relief than needed if the parcels were separate. She  
173 stated she believed he would need to take care of that before formally filing for a  
174 subdivision. C. Pierson further explained that if there were a real issue with  
175 ownership that the subdivision would not make it through the Planning Board. She  
176 reminded everyone that approving the variances does not make the subdivision  
177 happen immediately and that C. Fogg still had to return to the Planning Board.

178 D. Hennel asked if anyone had any further questions about the application.

179 Dick Schlansker shared that he had an issue with the buildings that were to be split  
180 between two lots by the subdivision. He expressed concern about how taxes would  
181 be calculated, how sales would be made, and how this configuration would work.

182 B. Peterson specified to C. Fogg that D. Schlankser was referring to the infill shed and  
183 garage. He asked about the feasibility of removing these buildings.

184 C. Fogg answered that they were quality buildings and served real utility to the  
185 property. He explained that is where machines related to the maintenance of the  
186 property were stored as well as several automobiles. He concluded by saying he had  
187 no intention of removing the buildings.

188 C. Beers asked specifically about the garage.

189 C. Fogg replied that the garage will be deeded to 503 Saratoga Road, the parcel  
190 proposed to be closest to Route 50.

191 There was a discussion concerning the feasibility of selling parcels that have  
192 structures intruding into other lots.

193 C. Pierson stated that the issue was a valid concern, but ultimately was outside the  
194 scope of the Zoning Board of Appeals. She concluded that this issue would be better  
195 left to the seller and buyer of the property.

196 B. Peterson asked if it would still be easier to resolve the issue now and make the  
197 parcels more conforming.

198 C. Pierson replied that she would not recommend the Zoning Board of Appeals become  
199 involved in the issue.

200 D. Hennel added that the issue of structures intruding into neighboring properties  
201 currently exists in the present configuration. He stated that the variance would not  
202 make that particular situation any worse than it was currently.

203 C. Pierson shared that the Planning Board believed that, by allowing this subdivision,  
204 the area would become more conforming due to the fact that each parcel would  
205 have one primary structure rather than two.

206 D. Hennel agreed and asked if C. Pierson recommended making a condition of  
207 approval that only two tax parcels could result from this subdivision. Thereby  
208 forcing the sliver parcel issue to be resolved.

209 C. Pierson replied that would be better suited to be addressed by the Planning Board  
210 and Department. She reminded everyone that she would be at the Planning Board  
211 meeting and would ensure the subdivision is done correctly.

212 D. Hennel recounted the recommendations to the Planning Board that were being  
213 proposed. He recalled that written easements were one recommendation and two  
214 parcels were another and asked if there were others he was forgetting.

215 C. Pierson explained that these were considerations already made by the Planning  
216 Board and that she did not see a need for any of those items as recommendations.  
217 She concluded that if the Zoning Board of Appeals felt more comfortable making  
218 recommendations, then it would not hurt either.

219 There was a discussion about the sliver parcel and how best to ensure it was included  
220 as part of the subdivision

221 B. Peterson asked if they should recommend any action on the sheds intruding into  
222 other parcels.

223 D. Hennel replied that C. Pierson recommended they not address that issue.

224 C. Pierson added that any conditions imposed by the Zoning Board of Appeals must be  
225 directly related to addressing an externality brought about by granting the variance.  
226 She reiterated that the Zoning Board of Appeals should not impose conditions  
227 unrelated to the variance being reviewed.

- 228 D. Schlankser shared that he was having a hard time deciding whether to approve this  
229 variance because, while the existing parcel was non-conforming in many ways,  
230 approving the subdivision would make the area non-conforming in numerous other  
231 ways.
- 232 C. Pierson replied that the subdivision would make the property more conforming  
233 because one primary structure would be on each parcel.
- 234 D. Schlankser stated that, while that was true, dimensionally these two parcels  
235 would be more non-conforming than the original especially when setbacks,  
236 minimum lot widths, and lot sizes are considered
- 237 C. Pierson answered that the Planning Board was also having similar thoughts about  
238 the application.
- 239 D. Hennel replied that this subdivision creates a flag lot which is explicitly not allowed  
240 in Town.
- 241 C. Fogg added that the property was non-conforming in many ways, but has always  
242 been like that. He explained that the configuration and buildings looked messy from  
243 the top-down view, but on the ground, everything looked clean and that he took care  
244 of his property.
- 245 D. Schlankser asked if there were any conditions that could be imposed to improve the  
246 lot and make it less non-conforming. He suggested reconfiguring the lots or moving  
247 sheds and garages in order to address the intrusion into other parcels by existing  
248 structures.
- 249 C. Pierson answered that it would be best to not address issues unrelated to the  
250 variance at hand.
- 251 There was a conversation about whether the side setbacks were being made more  
252 nonconforming if the variance were to be granted.
- 253 D. Hennel asked if anyone else wished to speak for or against the motion.  
254 No one wished to speak.
- 255 **D. Hennel closed the public hearing.**
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257 B. Peterson made the following motion.

258 **MOTION:**

259 The applicant, Charles Fogg, having applied for an area variance for the  
260 proposed parcel 503 Saratoga Road with regards to the Codes of the  
261 Town of Glenville Sections § 270 Attachment 1: Table of Dimensional  
262 Regulations Minimum Lot Width in Professional Residential Zoning  
263 District, because the proposal would be in violation of the dimensional  
264 zoning regulations of the Town; and the Zoning Board of Appeals having  
265 considered the application, after a full and complete public hearing held  
266 on January 29, 2024; and after having considered the benefit to the  
267 applicant as weighed against any detriment to the health, safety, and  
268 welfare of the community in particular,

- 269
- 270 1. Whether an undesirable change will be produced in the character of  
271 the neighborhood or a detriment to nearby properties will be created  
272 by the granting of the area variance.
- 273

274 Finding of fact: This may benefit the Town as well as make the  
275 properties more useful considering separate ownership.

276  
277 2. Whether the applicant can achieve their goals via a reasonable  
278 alternative which does not involve the necessity of the area variance.

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280 Finding of fact: No, the only alternative would be to tear down all the  
281 existing buildings which would impose undue financial hardship on  
282 the applicant.

283  
284 3. Whether the requested area variance is substantial as compared to  
285 the lawful dimensions allowed by zoning code

286  
287 Finding of Fact: Yes, 129ft is more than what the Town permits.  
288 Although this is a driveway for a residence and not a commercial  
289 business frontage.

290  
291 4. Whether the area variance will have an adverse impact on the physical  
292 or environmental conditions of the neighborhood or community

293  
294 Finding of Fact: No, there would be no physical or environmental  
295 changes.

296  
297 5. Whether there has been any self-created difficulty

298  
299 Finding of Fact: All applications are self-created to an extent. This  
300 particular one is trying to deal with preexisting conditions whereas the  
301 application may have been reasonable at the time it was created.

302  
303 Now, therefore be it resolved that this area variance application for  
304 129.23ft of Minimum Lot Width in the Professional Residential Zone  
305 be granted with the following recommendations to the Planning Board  
306 of Glenville:

- 307  
308 1. The proper easements for driveways and utilities be provided in  
309 writing.  
310 2. Ensure the sliver parcel north of property (SBL: 15.8-5-33.2) is  
311 combined with the existing 503 Saratoga Road parcel (SBL:  
312 15.8-5-34) prior to subdivision.

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314 **MOVED BY:** B. Peterson  
315 **SECONDED BY:** D. Hennel  
316 **AYES:** 5 (Hennel, Schlansker, Peterson, Suydam, Beers)  
317 **NOES:** 0  
318 **ABSENT:** 0

319 **MOTION APPROVED**

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B. Peterson made the following motion.

**MOTION:**

The applicant, Charles Fogg, having applied for an area variance for the proposed parcel 505 Saratoga Road with regards to the Codes of the Town of Glenville Sections § 270 Attachment 1: Table of Dimensional Regulations Minimum Lot Width in Professional Residential Zoning District, 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 January 29, 2024; and after having considered the benefit to the applicant as weighed against any detriment to the health, safety, and welfare of the 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: This may benefit the Town as well as make the properties more useful considering separate ownership.

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

Finding of fact: No, the only alternative would be to tear down all the existing buildings which would impose undue financial hardship on the applicant.

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

Finding of Fact: Yes, 129ft is more than what the Town permits. Although this is a driveway for a residence and not a commercial business frontage.

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, there would be no physical or environmental changes.

5. Whether there has been any self-created difficulty

364 Finding of Fact: All applications are self-created to an extent. This  
365 particular one is trying to deal with preexisting conditions whereas the  
366 application may have been reasonable at the time it was created.

367  
368 Now, therefore be it resolved that this area variance application for  
369 90.5ft of Minimum Lot Width in the Professional Residential Zone be  
370 granted with the following recommendations to the Planning Board of  
371 Glenville:

- 372 1. The proper easements for driveways and utilities be provided in  
373 writing.
- 374 2. Ensure the sliver parcel north of property (SBL: 15.8-5-33.2)  
375 is combined with the existing 503 Saratoga Road parcel  
376 (SBL: 15.8-5-34) prior to subdivision.

377 **MOVED BY:** B. Peterson

378 **SECONDED BY:** D. Hennel

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

380 **NOES:** 0

381 **ABSENT:** 0

382 **MOTION APPROVED**

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383  
384 B. Peterson made the following motion.

385 **MOTION:**

386 The applicant, Charles Fogg, having applied for an area variance for the  
387 proposed parcel 505 Saratoga Road with regards to the Codes of the  
388 Town of Glenville Sections § 270 Attachment 1: Table of Dimensional  
389 Regulations Minimum Lot Size in Professional Residential Zoning District,  
390 because the proposal would be in violation of the dimensional zoning  
391 regulations of the Town; and the Zoning Board of Appeals having  
392 considered the application, after a full and complete public hearing held  
393 on January 29, 2024; and after having considered the benefit to the  
394 applicant as weighed against any detriment to the health, safety, and  
395 welfare of the community in particular,

- 396  
397 1. Whether an undesirable change will be produced in the character of  
398 the neighborhood or a detriment to nearby properties will be created  
399 by the granting of the area variance.

400  
401 Finding of fact: This may benefit the Town as well as make the  
402 properties more useful considering separate ownership.

- 403  
404 2. Whether the applicant can achieve their goals via a reasonable  
405 alternative which does not involve the necessity of the area variance.

406  
407 Finding of fact: No, the only alternative would be to tear down all the  
408 existing buildings which would impose undue financial hardship on  
409 the applicant.

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

Finding of Fact: Yes, 129ft is more than what the Town permits. Although this is a driveway for a residence and not a commercial business frontage.

- 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, there would be no physical or environmental changes.

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

Finding of Fact: All applications are self-created to an extent. This particular one is trying to deal with preexisting conditions whereas the application may have been reasonable at the time it was created.

Now, therefore be it resolved that this area variance application for 28,734sqft of Minimum Lot Size in the Professional Residential Zone be granted with the following recommendations to the Planning Board of Glenville:

- 1. The proper easements for driveways and utilities be provided in writing.
- 2. Ensure the sliver parcel north of property (SBL: 15.8-5-33.2) is combined with the existing 503 Saratoga Road parcel (SBL: 15.8-5-34) prior to subdivision.

**MOVED BY:** B. Peterson  
**SECONDED BY:** D. Hennel  
**AYES:** 5 (Hennel, Schlansker, Peterson, Suydam, Beers)  
**NOES:** 0  
**ABSENT:** 0

**MOTION APPROVED**

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**MOTION:**

To adjourn the January 29th, 2023 meeting of the Town of Glenville Zoning Board of Appeals at 8:00 pm

**MOVED BY:** D. Hennel  
**SECONDED BY:** B. Suydam  
**AYES:** 5 (Hennel, Schlansker, Peterson, Suydam, Beers)  
**NOES:** 0  
**ABSENT:** 0

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**MOTION APPROVED**

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457 Next scheduled agenda meeting: February 12<sup>th</sup>, 2024

458 Next scheduled meeting: February 26<sup>th</sup>, 2024.

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Nicholas Chiavini, Stenographer

\_\_\_\_\_   
Date

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464 \_\_\_\_\_  
ZBA Chairman

\_\_\_\_\_   
Date

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467 \_\_\_\_\_  
Town Clerk

\_\_\_\_\_   
Date

FINAL