

**MEETING OF THE ZONING BOARD OF APPEALS  
OF THE TOWN OF GLENVILLE  
THE GLENVILLE MUNICIPAL CENTER  
18 GLENRIDGE ROAD, GLENVILLE, NY 12302  
Monday September 25, 2017**

**PRESENT:** Interim Chairman: Margaret Huff, Dick Schlansker, Jeff Stuhr, Bruce Wurz,  
Board Liason: David Hannel

**ABSENT:** Vice Chairman: Joseph Vullo; Code Enforcement: Terri Petricca

**ALSO ATTENDING:** Attorney: Michael Cuevas; Assistant Building Inspector: Arnold  
Briscoe; Stenographer: Jen Vullo

Interim Chairman Huff called the meeting to order at 7:00 P.M. She stated what appeared  
on the agenda for this evening.

**MOTION:** To accept the September 2017 agenda as amended.

**MOVED BY:** J. Stuhr  
**SECONDED:** B. Wurz

**AYES:** 4 (Huff, Schlansker, Stuhr, Wurz)  
**NOES:** 0  
**ABSENT:** 1 (Vullo)  
**ABSTAIN:** 0

**MOTION CARRIED**

**MOTION:** To accept the August 2017 minutes as amended.

**MOVED BY:** B. Wurz  
**SECONDED:** D. Schlansker

**AYES:** 4 (Huff, Schlansker, Stuhr, Wurz)  
**NOES:** 0  
**ABSENT:** 1 (Vullo)  
**ABSTAIN:** 0

**MOTION CARRIED**

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**PUBLIC HEARING**

**Application of Angela Cooke**, 111 First Street, Scotia, NY 12302, for a **Use Variance**  
for property at 14 Riverside Place, Alplaus, NY 12008. The applicant is proposing to

place a 24' x 8' seasonal camper on the vacant property. The applicant is also requesting a floodplain development permit to place clean fill on a considerable amount of the property to allow for a tent site and to level off low areas. The property is located on the south side of Riverside Place, which runs west off the south end of Brookside Place. The property is zoned Land Conservation and is identified on tax map 31.5-1-42. **In accordance with the Codes of the Town of Glenville 270-21**, the proposed uses of the property are not permitted in the LC Zoning District.

Interim Chairman Huff read the application and review factors for the variance requests into the record.

Sent to 27 neighboring property owners with several responses. This was referred to the County on 9/8/17. Since it has not been returned from the County and we have to give them 30 days, the Board will be unable to vote on this application tonight.

Included with the application:

1. Survey diagram
2. Deed
3. Plot Plan Map
4. Floodplain Development Diagram
5. Site Plan
6. Environmental assessment form

Letters received:

1. Email: Manuel Domingos – opposed to variance
2. Email: David Taylor – opposed to variance
3. Letter: Connor Henley – opposed to variance
4. Letter: Marjorie Smidt – opposed to variance
5. Letter: Susan Breslin – opposed to variance

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. The applicant expressed that they are just trying to level the land to make it usable. There is a platform that is currently on logs, and they are looking to change to an interactive structure. ABD Engineers supplied drawings and site plans. They don't agree with the letters submitted that the land looks bad. They understand land conservation and only cleared what they had permission to clear. They just want to be able to use the land like their neighbors do.

Interim Chairman Huff asked for comments from the community either in favor or opposed to the variance application

In Favor: Tom McGary, owns land at the end of Brookside Drive in the Land Conservation Zoning District, and is ok with the Cooke's plan as long as vehicles can go down the road.

Opposed: Larry and Vicki Andrews, next door to the Cookes (#16 Brookside Drive). They believe that because the property is zoned Land Conservation (LC) you can't do

anything with it, and question if the Cooke's currently have permits to do everything they have already done. A. Briscoe confirmed that a permit was issued for clearing. They explained that the fire marshall checks in on them when the area floods and has to be able to access the road. They believe in following the guidelines of the Town and no more. They hired an excavator to clear ice on their property. They are concerned that if neighbors bring in additional fill it will cause more flooding for the other properties. They believe the Cookes have cleared more than 30% of the land allowed. The trailer the Cookes brought in has never left the property and is an eyesore.

Christopher Breslin, Mohawk Ave. Alplaus, appreciates the letters submitted and the town process. He shares the same concerns as those expressed in the letters submitted. His concern is with the LC and flooding of neighboring property. He is also a volunteer fireman and has had to rescue residents in that area during floods. He doesn't think we should perpetuate the flooding issue with further development which would result in more evacuations. He believes the Cooke's seasonal camper should be semi-permanent, or temporary, like a tent. The Cookes bought the land knowing it was zoned LC. He recommends a houseboat. The portable potty has also become permanent. He feels evacuation plans should be submitted and that you shouldn't be allowed to build in the floodplain.

Jessica Evans, Mohawk Ave. Alplaus, feels the criteria is not being met for a use variance. She feels the use is not unique and is self-created, and is not keeping with the character of the neighborhood with a trailer and a portable potty. She believes the fill will wash in to the river, diverting water onto neighbor's property. Respect the LC zoning.

A. Cooke responded that they didn't clear any more land than they had permission to.

Sue Breslin, 29 Mohawk Ave., understands their frustration, but they bought the land knowing it was zoned LC.

Interim Chairman Huff solicited questions from the Board members. She asked if a new permit had been applied for since the old one is expired. A. Cooke replied yes.

J. Stuhr inquired as to the history of the LC in that area. Was it rezoned? M. Cuevas explained that the last code change was around 2003. J. Stuhr asked if there has been any issue with the fill that has already been brought in. A Cooke replied no.

B. Wurz asked if they have checked with the Army Corps in regards to a dock. A. Cooke explained that they are in the process of getting dock approval from them. B. Wurz asked for clarification due to ownership of two parcels. The dock is to be placed on Riverside? A. Cooke replied yes. He also asked if the applicant could provide official floodplain plans. Again, A. Cooke replied yes. He also questioned the existence of a neighbor's pool on the property. A. Cooke explained it has been removed.

Interim Chairman Huff asked what exactly is their evacuation plan. The applicant explained that they can hook up their camper and portable potty to their truck and relocate it. It takes approximately 45 minutes to set it all back up. M. Huff also explained that with a use variance you have to demonstrate financial hardship – how will you do this? The applicant explained that it is more difficult to use the land without a structure. M. Huff explained that at the next meeting the applicant needs to provide everything they can to show that they meet the four criteria of a use variance. She then explained that since the County has 30 days to weigh in on this application, the Board cannot vote tonight, and they would recommend to table the application until next month. The applicant agreed to table the application until further review from the County is received.

**MOTION:**

Now, therefore be it resolved that this application for a use variance be tabled.

**MOTION:**

**Moved by:** B. Wurz

**Seconded by:** J. Stuhr

**AYES:** 4 (Interim Chairman Huff, Schlansker, Stuhr, Wurz)

**NOES:** 0

**ABSENT:** 1 (Vullo)

**MOTION TABLED**

**Application of Charles T. Lemley**, 2044 Cook Road, Charlton, NY 12019, for an **Area Variance** to allow for the construction of a new and enlarged covered front porch and steps. The porch, including the 3 steps, will have a front set back of 18' 6" from the front lot line. Temporary steps have been put in place pending construction of the permanent steps. The property is located in a Suburban Residential Zoning District and is identified on tax map 15.19-2-17.

**In accordance with the Codes of the Town of Glenville** 270-Attachment 1, the minimum front setback distance in the SR zoning district is 30 feet. Therefore, the applicant is seeking a variance of 11' 6" from this section of the Code.

Interim Chairman Huff read the application and review factors for the variance requests into the record. She noted that this property is located at 4 David Lane, not 2044 Cook Road.

Sent to 47 neighboring property owners with no responses. This was not referred to the County.

Included with the application:

1. Plot Plan with new steps
2. Deed for property

### 3. Building permit application

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. C Lemley had nothing further to add.

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

Interim Chairman Huff solicited questions from the Board members. B. Wurz commented that it makes complete sense to do what you're doing. It keeps everything in line with the neighbors.

#### **MOTION:**

The applicant having applied for an area variance after having been denied a building permit to erect or construct a new and enlarged covered front porch and steps at 4 David Lane in the Town of Glenville, New York; and

The applicant having applied for an area variance in accordance with the code of the Town of Glenville

because the proposed use of the property would be in violation of such restriction or setback requirement; and

The Board having considered the application, after a full and complete public hearing, and after having considered the benefit to the applicant as weighed against any detriment to the health, safety and welfare of the neighborhood or community; in particular,

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

No, these houses were built a long time ago and most already have enlarged front porches.

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

No, additional space is needed in order to construct the porch appropriately

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

Yes, because the applicant is asking for almost a 50% change from what is required

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

No, most homes already have enlarged front porches

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

Yes, age has required it to be replaced.

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

**MOTION:**

**Moved by:** Interim Chairman Huff

**Seconded by:** J. Stuhr

**AYES:** 4 (Interim Chairman Huff, Schlansker, Stuhr, Wurz)

**NOES:** 0

**ABSENT:** 1 (Vullo)

**Conditions:** none

**MOTION APPROVED**

**Continuation Item:**

**Monolith Solar**, Use Variance Application for property at 736 Saratoga Road.  
Continued from the August meeting

**APPLICATION OF MONOLITH SOLAR**, 444 Washington St., Rensselaer, NY for a Use Variance which will allow for the property to be used for the commercial installation/construction of roof mounted PV solar system for the sale of energy to off-site locations. The site location is 736 Saratoga Road, Glenville, NY 12302. The property is located in the Community Business Zoning District and identified on tax map 10.17-6-2.121 (owned by L & R Development Corp.)

This is a use not currently accommodated by the Town of Glenville Zoning Ordinance.

The referral from the County dated 8/23/17 was received and was deferred to local consideration, with a recommendation that the Town should amend zoning laws for commercial solar installations.

Interim Chairman Huff asked the applicant if he had any comment to share with the Board. Andrew Petersen, Monolith Solar, stated that everything was spelled out in the letter to the Board.

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

Interim Chairman Huff solicited questions from the Board members. She inquired if they had received a letter of affidavit from the owners of the property. A. Petersen submitted a signed letter from Mr. Ramsey, the owner.

D. Hennel commented that the Town of Glenville supports solar and that discussions are currently taking place regarding solar codes with the Town Board.

Interim Chairman Huff expressed her initial concerns regarding the financial hardship but feels the letter submitted addresses this. M. Cuevas explained that it is the Board's discretion on how to view the matter of financial hardship.

B. Wurz asked if the current rent on each unit is competitive, or could raising the rent meet the financial needs. A. Petersen explained that not all units are rented, and that supply and demands dictates price.

### **MOTION:**

Whereas, the applicant having applied for a use variance for property located at 736 Saratoga Road in the Town of Glenville, and

Whereas, the property is zoned Community Business Zoning District and the applicant wants to use the property for the commercial installation/construction of roof mounted solar system, a use not allowed in the area, and

Whereas, a public hearing was held on 8/28/17 and 9/25/17 to consider the application, **Now, therefore be it resolved** that this application be approved because the applicant has shown that the applicable zoning regulations and restrictions caused unnecessary hardship for the following reasons:

1. The applicant cannot realize a reasonable return from the property in question. Competent financial evidence has been presented: a certified statement from the owner and projected increases without the expansion of storage facilities
2. The plight of the applicant is not due to unique circumstances and does not apply to a substantial portion of the neighborhood or general conditions in the neighborhood. These unique circumstances are: the business is subject to normal increases in taxes and utilities without increased income at this location, while still keeping prices competitive
3. The use requested by this variance will not alter the essential character of the neighborhood as follows:
  - A. Surrounding uses include: local businesses and restaurants in the main corridor
  - B. The proposed use will not create any special safety hazard such as: not making the building any taller. The panels are flat, not real noticeable.
  - C. Traffic will not be a problem because: it's a utility being provided

4. The hardship claimed by the applicant was self-created because: he's trying to maximize business with addition of solar panels and the rent it will generate for him.

**Be it further resolved** that the granting/denial of the variance will be in harmony with the general purpose of the Zoning Ordinance of the Town of Glenville.

The following conditions are imposed for the purpose of minimizing any adverse impact on the neighborhood or the community: The solar panels being approved are those on map 7/31/17 and may not be located on any units in the Town of Ballston. They may be replaced as needed but no additional panels can be installed.

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

**MOTION:**

**Moved by:** Interim Chairman Huff

**Seconded by:** J. Stuhr

**AYES: 4** (Interim Chairman Huff, Schlansker, Stuhr, Wurz)

**NOES: 0**

**ABSENT: 1** (Vullo)

**Conditions:** The solar panels being approved are those on map 7/31/17 and may not be located on any units in the Town of Ballston. They may be replaced as needed but no additional panels can be installed.

**MOTION APPROVED**

**MOTION:** To adjourn the September 25, 2017 meeting of the Town of Glenville Zoning Board of Appeals.

**Moved by:** J. Stuhr

**Seconded by:** D. Schlansker

**AYES: 4** (Interim Chairman Huff, Schlansker, Stuhr, Wurz)

**NOES: 0**

**ABSENT: 1** (Vullo)

**MOTION APPROVED**

Next meeting: October 23, 2017

Submitted by,

Jennifer Vullo

Jennifer Vullo  
Stenographer