

**MEETING OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF GLENVILLE
THE GLENVILLE MUNICIPAL CENTER
18 GLENRIDGE ROAD, GLENVILLE, NY 12302
Monday October 23, 2017**

PRESENT: Vice Chairman: Joseph Vullo (acting as Interim Chairman tonight), Dick Schlansker, Jeff Stuhr (acting as Vice Chairman tonight), Bruce Wurz, Board Liason: David Hennel

ABSENT: Interim Chairman: Margaret Huff

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

J. Vullo called the meeting to order at 7:01 P.M. He stated what appeared on the agenda for this evening.

MOTION: To accept the October 2017 agenda as amended.

MOVED BY: B. Wurz

SECONDED: J. Stuhr

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

NOES: 0

ABSENT: 1 (Huff)

ABSTAIN: 0

MOTION CARRIED

MOTION: To accept the September 2017 minutes as amended.

MOVED BY: B. Wurz

SECONDED: D. Schlansker

AYES: 3 (Schlansker, Stuhr, Wurz)

NOES: 0

ABSENT: 1 (Huff)

ABSTAIN: 1 (Vullo)

MOTION CARRIED

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PUBLIC HEARING

Application of Peter Bednarek, 2235 West Glenville Road, Amsterdam, NY 12302 for an **Area Variance** that will allow for the construction of a 36' x 42' detached garage (including a lean-to off the west side and rear). The garage will be 24' to the peak and have a mean height of 19'. Said property is located in the Rural Residential/Agricultural Zoning District and is identified on tax map 3.4-1-19.

In accordance with the Codes of the Town of Glenville 270-9, D: The (mean) height of an accessory structure shall not exceed 15'. Therefore, the applicant is seeking a height variance of 4'.

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

Sent to 17 neighboring property owners with no responses returned. This was not referred to the County.

Letters presented by the homeowner at meeting in favor of the application:

1. Rick Gleason, 2253 W. Glenville Road
2. Jerome McNeil Riccardi, 2215 W. Glenville Road
3. Alex Fischer, 2200 W. Glenville Road
4. Matthew Loincono, 2161 W. Glenville Road
5. Jenus White, 1612 W. Glenville Road

J. Vullo asked the applicant if he had any comment to share with the Board. The applicant submitted pictures and memos from neighbors.

J. Vullo asked for comments from the community either in favor or opposed to the variance application. No responses.

J. Vullo solicited questions from the Board members. J. Stuhr inquired about the roofing material. The homeowner replied it is asphalt.

J. Vullo asked if the siding on the structure will closely match the siding on the house. The homeowner responded that the siding on the garage will be shiplap and board and batten, as is on the house. Also, the peak of the garage will be oriented the same as the peak on the house.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a new garage to replace an existing structure at 2235 West Glenville Road 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, most of the adjoining or neighborhood properties have garage or barn structures of similar size and height.

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

Yes, the new structure could have been designed with a larger footprint, requiring a larger foundation at a greater cost and therefore taking up additional yard space.

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

No, the additional mean height is only 4 feet above the current 15 foot code height.

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, many of the accessory structures as well as homes in the neighborhood are more than 15 feet in height.

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, a larger garage is required to provide storage.

Conditions: Exterior shiplap of garage must be similar to shiplap on house.

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

MOTION:

Moved by: B. Wurz

Seconded by: J. Stuhr

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

NOES: 0

ABSENT: 1 (Huff)

Conditions: Exterior shiplap of garage must be similar to shiplap on house.

MOTION APPROVED

Application of Anthony & Virginia Mushaw, 188 Sunnyside Road, Glenville, NY 12302 for an **Area Variance** that will allow for the construction of a new 24' x 10' covered front porch. The porch is currently under construction and is located 25' from the front property line. Said property is located in the Suburban Residential Zoning District and is identified on tax map 30.19-2-29.

In accordance with the Codes of the Town of Glenville **270-Attachment 1**, the minimum front setback shall be 30'. Therefore, the applicant is seeking a 5' variance from this section of the code.

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

Sent to 44 neighboring property owners with no responses. This was referred to the County on October 6, 2017. 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.

J. Vullo asked the applicant if he had any comment to share with the Board. No.

J. Vullo asked for comments from the community either in favor or opposed to the variance application. No responses.

J. Vullo solicited questions from the Board members. D. Schlansker commented that this was a thorough submission of an application, and feels the porch will add nicely to the home. He inquired as to the front elevation. The homeowner described the appearance and materials used to match the pitch of the house.

J. Stuhr asked the applicant to clarify again the front view of the porch. The applicant explained there are 4-5 vertical posts, railings with spindles, and stained to match the house.

B. Wurz clarified if the dormer over the old steps would be removed. The applicant replied yes.

The applicant agreed to table the application until further review from the County is received.

Now, therefore be it resolved that this application for an area variance be tabled until further notice.

MOTION:

Moved by: B. Wurz
Seconded by: D. Schlansker
AYES: 4 (Vullo, Schlansker, Stuhr, Wurz)
NOES: 0
ABSENT: 1 (Huff)
Conditions:

MOTION TABLED

Application of 53 Freemans Br. Rd. LLC, Pet Lodge, Matt Sames, 19 Blue Jay Way, Rexford, NY 12148 for a **Conditional Use Permit** that will allow for a new outdoor doggie daycare yard situated between the building and Sarnowski Drive. The outdoor kennel will be 98'8" x 12' 6" and run along the length of the building and extend to the front lot line of Sarnowski Drive. The project also includes interior alterations to reduce retail space and expand the doggie daycare portion. The property is located in a General Business Zoning District and is identified on tax map. 30.19-1-5.1.

In accordance with the Codes of the Town of Glenville 270-126: Expansion of a CUP. Any expansion or alteration of a conditional use, whether it be the expansion or reconfiguration of the principal building, parking lot, driveways, accessory buildings, etc., is subject to the review procedures outlined in this article (CUP's)

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

Sent to 26 neighboring property owners with no responses. This was referred to the County on 9/11/17 and was deferred to local consideration.

Letters received:

1. Subway, letter of support
2. PZC recommended approval

J. Vullo asked the applicant if he had any comment to share with the Board. None

J. Vullo asked for comments from the community either in favor or opposed to the variance application. None

J. Vullo solicited questions from the Board members. He asked if under condition 4 of the application if any utilities will need to be added. Matt Sames replied no.

J. Stuhr asked what the plan is to repair any cracked pavement. M. Sames explained that a hard, white fence will be installed, with 5-6 inches of rounded peastone added around the edges. This allows them to scoop and easily bag doggie waste. More can be added as needed. It will go right over the top of the cracked asphalt.

J. Stuhr also inquired as to how many dogs will be using this area. M. Sames replied 25-30 dogs.

J. Vullo asked if the PZC wanted the cracked pavement cleaned up. M. Cuevas explained the PZC was referring to the paved area outside of the fence. M. Sames explained that the area between the road and the fence is only about 2 feet.

B. Wurz inquired that if the fence is 6 feet high and there is 2 feet of snow, is that high enough for the safety of the dogs. M. Sames said yes.

MOTION:

Whereas, the applicant having applied for a conditional use permit for property located in the Town of Glenville at 53 Freeman's Bridge Road, and the property is zoned General Business and

Whereas, the applicant wants to use the property for a Pet Lodge and Doggie Daycare, a use allowed in the district by issuance of a conditional use permit, and whereas, the Planning and Zoning Commission of the Town of Glenville has reviewed the application and has recommended that this board approve the application, and Whereas the Planning and Zoning Commission of the Town of Glenville has recommended the following conditions be attached to this permit:

1. Clean up of cracked asphalt on Sarnowski Drive, including refinishing a two foot asphalt strip outside of the new fence.
2. Outdoor areas remain clean and upkept.
3. Hard vinyl fence, limited to 6' in height

And,

Whereas a public hearing was held on 10/23/17 to consider the application.

Now, therefore be it resolved that this be approved for the following reasons:

The Board of Appeals finds:

- A. The establishment, maintenance or operation of the use will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.
Fact for this:

No, this will not be considered detrimental to the community

- B. The use will not be injurious to the use and enjoyment of other property in the vicinity for purposes already permitted, nor substantially diminish or impair property values in the neighborhood. Fact for this:

No, the use will not be injurious to properties in the vicinity. The design supports a newer look to the area, and surrounding businesses have provided support.

- C. Establishment of the use will not impede the normal and orderly development and improvement of surrounding property. Fact for this:

No, the use will not impede normal/orderly development but will act as a visual improvement with a hard fence.

- D. Adequate utilities, access roads, drainage and other necessary facilities have been provided or will be provided. Fact for this:

No additional facilities are required.

- E. Adequate measures have/have not been or will/will not be taken to provide entry and exit designed to minimize traffic congestion on the public streets. Fact for this:

This will not impact traffic.

- F. The conditional use shall, in all other respects, conform to applicable rules, regulations and ordinances of the Town of Glenville and be consistent with the comprehensive and general development plan of the Town of Glenville. Fact for this:

Yes, we would say this CUP conforms to regulations and ordinances of the Town of Glenville.

Conditions:

1. Clean up of cracked asphalt on Sarnowski Drive, including refinishing a two foot asphalt strip outside of the new fence.
2. Outdoor areas remain clean and upkept.
3. Hard vinyl fence, limited to 6' in height

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

MOTION:

Moved by: J. Vullo

Seconded by: B. Wurz

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

NOES: 0

ABSENT: 1 (Huff)

MOTION APPROVED

Continuation Items:

APPLICATION OF 53 FREEMANS BR. RD. LLC, PET LODGE, MATT SAMES, 19
Blue Jay Way, Rexford, NY 12148 for 2 Area Variances that will allow for a new

outdoor doggie daycare yard situated between the building and Sarnowski Drive. The outdoor kennel will be 98'8" x 12' 6" and run along the length of the building and extend to the front lot line of Sarnowski Drive. The property is located in a General Business Zoning District and is identified on tax map. 30.19-1-5.1.

In accordance with the Codes of the Town of Glenville the following variances are being sought.

- 1) 270-56, C, (2):** All veterinary clinics, animal training facilities, animal hospitals, and kennels with enclosed exercise pens or kennels shall be located no closer than 50 feet to any adjoining property line.

The applicant proposes a 0' setback from Sarnowski Drive,

Variance request: Total relief from this section of the code is requested.

- 2) 270-56, A:** General, (1) Adequate landscaping and/or fencing shall be provided to create a visual, sound and odor buffer between such facility and adjacent properties.

An adequate buffer is not provided

Variance request: Total relief from this section of the ordinance is requested.

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

This was mailed to 26 property owners. It was referred to the County and was received back on 9/11/17. It was deferred to local consideration.

Included with application:
A map of the site.

Letters received:
A new letter from Trustco Bank was received recanting the first letter.

NOTE:

It was also noted that the installation of the vinyl fence will eliminate the request for the second variance (**270-56, A**). The applicant wishes to withdraw the request for that variance.

J. Vullo asked the applicant if he had any comment to share with the Board. None

J. Vullo asked for comments from the community either in favor or opposed to the variance application. None

J. Vullo solicited questions from the Board members. J. Stuhr expressed his concerns about the proximity of the fence to the roadway, the large amounts of traffic in that area, and the impact to the dogs. M. Sames feels that a hard fence mitigates this problem. "What dogs can't see they usually don't react to."

T. Petricca stated that the original application was for an 8 foot fence. Is this now a 6 foot fence? M. Sames said he would do an 8 foot fence if he could get it, otherwise he would install a 6 foot fence. J. Vullo stated that he was comfortable with a 6 foot fence.

B. Wurz asked again if a 6 foot fence with snow buildup would be adequate to protect the dogs. M. Sames explained snow removal and that the dogs are not unattended.

D. Hennel asked if PZC asked for plantings or other screenings. M. Cuevas said nothing was said about landscaping.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to expand doggie daycare space at 53 Freeman's Bridge Road 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 set back requirement; and

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

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

No, it would not create undesirable character as the proposed new fence would replace weeds and torn asphalt.

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

No, this expanded space is required for the intended use of the daycare.

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

Yes, full relief from the Town requirement (50') is substantial.

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

No, the physical condition would be improved with the new fence and replaced asphalt.

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, it is self-imposed, however this expanded space is required for the intended use.

Conditions: none

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

MOTION:

Moved by: J. Vullo

Seconded by: B. Wurz

AYES: 3 (Vullo, Schlansker, Wurz)

NOES: 1 (Stuhr)

ABSENT: 1 (Huff)

Conditions: none

MOTION APPROVED

Application of Angela Cooke, 111 First Street, Scotia, NY 12302, for a **Use Variance** for property at 14 Riverside Place, Alplaus, NY 12008. (Continued from September 2017)

The application was received from the County and deferred for local consideration, with an advisory note that the duration of the use be clearly indicated.

J. Vullo asked the applicant if he had any comment to share with the Board. A. Cooke submitted a lengthy written statement addressing many concerns that were expressed at the previous meeting. J. Vullo explained that the Board could read the statement into the record tonight, discuss it and possibly proceed to a vote, or let the Board members review the material and reconvene at the next meeting. He asked if all factors for a Use Variance were addressed. A. Cooke expressed that they would like to postpone the application until the Board has time to review it and they can consult their land attorney.

D. Hennel explained that the most involved piece of the application to prove is the financial hardship piece, and that VERY detailed information is needed.

M. Cuevas explained that to grant a Use Variance you are basically changing the zoning use of that property. Unnecessary hardship is not granted just because the property has decreased in value. Uses in a Land Conservation District have to be addressed clearly. Unique circumstances must relate to the property, not general conditions found there.

J. Vullo clarified that with the applicant's permission, the Board will table the application and public hearing until further notice. A. Cooke agreed to this motion.

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

MOTION:

Moved by: J. Stuhr
Seconded by: D. Schlansker
AYES: 4 (Vullo, Schlansker, Stuhr, Wurz)
NOES: 0
ABSENT: 1 (Huff)

MOTION TABLED

MOTION: To adjourn the October 23, 2017 meeting of the Town of Glenville Zoning Board of Appeals.

Moved by: D. Schlansker
Seconded by: J. Stuhr
AYES: 4 (Vullo, Schlansker, Stuhr, Wurz)
NOES: 0
ABSENT: 1 (Huff)

MOTION APPROVED

Next meeting: November 27, 2017

Submitted by,

Jennifer Vullo

Jennifer Vullo
Stenographer
FINAL AS OF 11/27/17