

Brian Peterson read the submitted 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 variances(s).

Answer: We are proposing to build a 26'x30' garage. This will not create an undesirable change or detriment to nearby properties. There are no houses located on the property line nearest the proposed structure. The proposed structure will be designed to fit in with the rural character of the area. Other barn and garage structures in the area are similarly located near the road. When complete, this structure will add to the area aesthetics and increase the value of the property.

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

Answer: There are no reasonable alternatives for construction of this structure. The land on both sides of home slopes from front to back making it unreasonable to construct the garage in a location behind the front plane of the home. The septic system and leach field are located in the front yard on the left side. The proposed location is the only spot where it is possible to build. Also, this location avoids utility lines as shown in the plot map/plan. Because a setback variance.

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

Answer: I don't believe the requested variance is substantial.

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

Answer: I do not see how this variance would have an adverse impact on physical or environmental conditions in the neighborhood or district.

5. Whether there has been any self-created difficulty

Answer: These variances are primarily requested because of the natural topography of the plot.

The application was signed by Neil Muscatiello, the property owner, on September 29, 2023. Notice of the application was mailed to 13 property owners within 500 feet of the affected property by the Town. This was not a County referral.

No letters were received

Chairman Hennel asked if the applicant, Neil and his partner Audra Muscatiello, wished to add anything to the application.

Neil Muscatiello replied that he was informed by the Town that his proposal only necessitated one area variance: the front setback. The original application requested a front setback variance as well as a variance to place an accessory structure in front of the principal structure.

Nick Chiavini clarified that recent changes in the Town Code permit accessory structures in front of principal structures under specific conditions in the RA Zoning District. This change was approved by the Town Board after the applicant applied for variances. He emphasized that, despite the application's wording, N. Muscatiello is seeking one area variance, not two.

D. Hennel opened the public hearing.

D. Hennel asked if anyone wished to speak in favor of granting the variance.

Gregory Gaskell (3765 West Glenville Rd) wished to speak in favor of granting the variance.

G. Gaskell stated that he lived directly across the street from the applicant's parcel. He voiced his opinion that granting this variance would not negatively impact the neighborhood in any way and noted many other properties in the neighborhood have accessory structures close to the road. He also identified himself as the neighbor most affected due to his home's position in relation to the proposed accessory structure's location. With this in mind, he emphasized he saw no issues with approving the variance and believed it would improve the neighborhood.

D. Hennel asked to clarify that G. Gaskell's property was the one directly across from the applicant. He further described the principal structure on the parcel as having a large front setback when compared to other homes in the area.

G. Gaskell confirmed the property D. Hennel described was his property.

D. Hennel asked if anyone wished to speak against granting the variance.

No one wished to speak against granting the variance.

D. Hennel explained that it was helpful to hear G. Gaskell was in support of the variance. He explained that the neighbors to the east and west of the applicant's property both had structures that were similarly quite close to the road. Because of this, D. Hennel was curious how G. Gaskell would feel about the variance being requested given that his property is one of the few in the neighborhood that conforms to the front setback dimensions required by Town Code.

D. Hennel asked the applicant for details on their plans for the exterior of the accessory structure.

N. Muscatiello replied that they had talked with a local architect about the design and were planning on a barn style that would complement the rural character of the area. He stated that they did not possess many details other than size and placement yet

132 because they did not want to pay an architect until they knew they could build this
 133 structure by receiving an area variance.

134 D. Hennel asked if they had a color in mind.

135 N. Muscatiello replied that they had not yet.

136 D. Hennel explained that he asked these questions because the Zoning Board of
 137 Appeals looks to meet the minimum required variance and is tasked with making
 138 sure that, if variances are granted, they will complement the neighborhood.

139 N. Muscatiello clarified that they are leaning towards a wood exterior.

140 D. Hennel stated that, for example, a metal structure would impact the character of the
 141 neighborhood. He expressed support for a wooden exterior.

142 N. Muscatiello replied that they were not considering a metal building.

143 D. Hennel asked the applicants if they would be amenable to having conditions
 144 imposed requiring, for example, wood siding with colors matching the principal
 145 structure.

146 D. Schlansker asked the applicants about their plans for the roof.

147 N. Muscatiello replied that, from what they've discussed with their architect, they are
 148 looking at a barn-style roof. He said they were also exploring architectural shingles.

149 C. Beers asked the applicants if they had any plans to modify their driveway because it
 150 is currently substandard for fire trucks.

151 A. Muscatiello replied that the driveway had been turned into a full "U" on their plans
 152 which would benefit fire truck access.

153 C. Beers expressed doubt that they would be able to receive a double curb cut permit
 154 for a "U" driveway. He further elaborated on how the existing driveway is too tight for
 155 a firetruck to navigate and the adjacent road is not ideal for firetrucks to park on.

156 C. Beers suggested widening the driveway and removing fenceposts located near the
 157 entrance to the driveway because of the damage they could do to fire trucks.

158 D. Schlansker asked if the application needed to be amended before they voted on it
 159 since it asked for two variances instead of one.

160 J. Pangburn replied that the application had already been amended to only ask for the
 161 front setback requirement and that's what the ZBA was voting on.

162 D. Schlansker thanked J. Pangburn for the explanation.

163 D. Schlansker asked J. Pangburn if there was a setback requirement for accessory
 164 structures positioned around a well.

165 J. Pangburn replied that he believes the required setback to be roughly 10ft.

166 D. Schlansker explained that he asked the question to understand if the garage's
 167 position could be adjusted at all.

168 N. Muscatiello explained the difficulty in avoiding all the utilities located throughout
 169 the yard

170 D. Schlankser replied that he understood there would be great financial difficulty
 171 involved in moving utility lines to minimize the front setback variance. He reiterated
 172 that he only wanted to know because it was hard to tell from the sketch if there was
 173 any room to move the garage further back from the road. He concluded that there
 174 did not appear to be any additional room.

175 D. Hennel pointed out that, contrary to the applicant's answer on the submitted
 176 materials, the variance being requested was quite substantial. The applicant
 177 requested a nearly 50% deviation from the allowed dimension. D. Hennel stated that

there was no question whether the variance was substantial given the magnitude of the variance.

D. Hennel also explained that there was a self-created hardship because the applicant had chosen to construct the garage.

N. Muscatiello agreed with this assessment.

B. Peterson asked if there were any additional access doors other than the two garage doors shown in the provided materials.

N. Muscatiello replied that there would be a man door either on the same side as the garage doors or around the side.

B. Peterson replied he would not want to see a man door facing the road.

N. Muscatiello replied that he agreed and was willing to put the man door wherever the ZBA desired if they wanted to condition its location.

D. Hennel asked if the board had further questions

No one replied that they had further questions

D. Hennel once again asked if anyone here wished to speak in favor of or opposed to the area variance.

Gregory Gaskell (3765 West Glenville Rd) reiterated his support for the area variance being granted. He explained that by hearing that the garage would not be metal or unsightly he was further in favor of granting the area variance request.

D. Hennel closed the public hearing.

D. Schlansker made the following motion.

MOTION:

The applicant having applied for an area variance after having been denied a building permit to erect or construct a 26' x 36' detached garage located at 3718 West Glenville Road, with a tax parcel # 3.- 1-16.212 in the Town of Glenville, New York; and

The applicant having applied for an area variance with regard to the Codes of the Town of Glenville Section(s) 270-9C Accessory Uses and Structures Location. No permitted accessory structure shall be located within 75' of a road in a RA zone. The applicant has requested relief of 35lf allowing the garage to be 40lf from the road.

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 December 18, 2023 at 7 pm 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 garage design will complement the house and surrounding rural structures. There are also structures in the neighborhood with similar setbacks

- 224
225 2. Whether the applicant can achieve their goals via a reasonable
226 alternative which does not involve the necessity of the area variance.
227

228 Finding of fact: No, with the existing well, propane line locations, and a
229 stormwater swale at the rear of the property, this becomes the only
230 viable option for the applicant.
231

- 232 3. Whether the requested area variance is substantial as compared to
233 the lawful dimensions allowed by zoning code
234

235 Finding of Fact: Yes, 35lf (~47%) requested variance is large, but the
236 allowed variance will not have a negative impact on nearby properties
237

- 238 4. Whether the area variance will have an adverse impact on the physical
239 or environmental conditions of the neighborhood or community
240

241 Finding of Fact: No, based upon the applicant's description of exterior
242 materials it will fit in nicely within the neighborhood.
243

- 244 5. Whether there has been any self-created difficulty
245

246 Finding of Fact: Yes, but there are many utility connections to the
247 house which are cost prohibitive to relocate.
248

249 Now, therefore be it resolved that this application for an area variance
250 be granted with the following conditions:

- 251 1. The siding material of the accessory structure must be wood.
252 2. The roof of the accessory structure must either be metal or
253 architectural shingle.
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255
256
257

258 **MOVED BY:** D. Schlansker

259 **SECONDED BY:** B. Suydam

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

261 **NOES:** 0

262 **ABSENT:** 0
263

MOTION APPROVED

264
265 **MOTION:**

266
267 To adjourn the December 18th, 2023 meeting of the Town of Glenville Zoning Board of
268 Appeals at 7:26 pm

269
270 **MOVED BY:** D. Hennel
271 **SECONDED BY:** B. Suydam
272 **AYES:** 5 (Hennel, Schlansker, Peterson, Suydam, Beers)
273 **NOES:** 0
274 **ABSENT:** 0

275 **MOTION APPROVED**

276
277 Next scheduled agenda meeting: January 22nd, 2024
278 Next scheduled meeting: January 29th, 2024.

279
280 _____
281 Nicholas Chiavini, Stenographer Date

282
283 _____
284 ZBA Chairman Date

285
286 _____
287 Town Clerk Date