

TOWN OF THOMPSON

ZONING BOARD OF APPEALS

TUESDAY, JANUARY 8, 2013

WORK SESSION – 6:30 PM

MEETING – 7:00 PM

AGENDA

SNOW – Katrina Falls Road – accessory building closer to roadway than main dwelling

THE LIPKOWITZ GROUP – Old Route 17 – lot coverage & fire separation

WASILEWICZ – Fraser Road – accessory building closer to roadway & property line setback

LANDAU – Fraser Road – building height, side yard & combined side yards

KRA CONTRACTING – Melody Lake Drive – front yard setbacks

JOHNSTON – The Curve – property line setback for accessory building

CARTWRIGHT – Beech Road – non-conforming structure, lot coverage, side yard setback, combined side yard setbacks & front yard setback

DEFILLIPPIS – accessory building with no main dwelling

**TOWN OF THOMPSON
ZONING BOARD OF APPEALS
TUESDAY, JANUARY 8, 2013**

IN ATTENDANCE: Chairman James Carnell Robert Hoose
Richard Benson Pamela Zaitchick
William Rieber, Jr., Alternate
Logan Ottino, Code Enforcement Officer
Paula Kay, Attorney
Scott Mace, Liaison

Chairman Carnell called the meeting to order at 7:00 PM and led in a pledge to the flag.

SNOW – no one was present for this hearing – there was no public comment regarding this project

THE LIPKOWITZ GROUP – no one was present for this hearing

WASILEWICZ – Jan Wasilewicz & Sherwood Martinelli

Chairman Carnell read the legal notice. Proof of mailing was submitted.

The applicant is requesting 2 area variances for the purpose of (1) allowing an accessory building closer to the roadway than the main dwelling and (2) decreasing the property line setback for a garage from 25' to 5.4'.

Chairman Carnell stated that this project has been in front of the board before. There was an issue with the mailing not being done which is why they are here again. The \$500 fine was paid. Chairman Carnell asked for public comment.

Oscar Pavloff, representing Yona Caricato: Mr. Pavloff stated that he was here to find out the result of the variance.

Paula Kay read a letter from Ms. Caricato in opposition to the variance. The letter was made a part of the file.

Chairman Carnell verified that the garage has been there for 10+ years.

The criterion for area variances was discussed.

Feasible alternative: all voted no; not at this point in time

Undesirable change: all voted no

Substantial request: all voted no

Adverse effect: all voted no

Self-created: all voted yes

A negative declaration motion was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

A motion to grant both area variances as requested was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

LANDAU – Mr. Zeiger stated that his engineer wasn't here yet could this item be skipped over for the time being.

A motion to take the agenda out of order was made by Pamela Zaitchick seconded by Bob Hoose.

4 in favor

0 opposed

KRA CONTRACTING – no one was present for this hearing. There was no public comment with respect to this project.

Paula Kay recused from the following hearing since she represents one of the property owners.

JOHNSTON – Camille Johnston & Laurence Johnston

Chairman Carnell read the legal notice. Proof of mailing was submitted.

The applicant is requesting area variances for the purpose of decreasing the minimum side yard setback for a shed from 10' to 4' and decreasing the minimum side yard setback for a shed from 10' to 6'.

Chairman Carnell advised that this was discussed in the work session. Typically this size shed would not need a permit. Since the shed did not meet the code, Logan stated that a permit would be required by the town.

There was a letter of approval from the Homeowners Association but it was unsigned. Camille agreed to get the letter signed by one of the Association.

Chairman Carnell asked how long the shed was there.

Ms. Johnston said a long time. I believe it may have been there when we purchased the property, or at least something was there before.

When asked how it got here, Ms. Johnston said that a neighbor complained.

Mr. Johnston stated that if the shed met the 10' setback it would be in the middle of the yard. The lots are quite small in this area.

The board had no questions and there was no public comment regarding this project.

The criterion for area variances was discussed.

Feasible alternative: all voted no; based on the size of the lots in that area

Undesirable change: all voted no; most of the property owners in that area have sheds on their property

Substantial request: all voted no; given the width of the lot

Adverse effect: all voted no

Self-created: all voted yes

A negative declaration motion was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

A motion to grant the variances as requested subject to a signed letter from the Homeowners Association was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

CARTWRIGHT – no one was present

DEFILLIPPIS – Vincenzo DeFillippis

Chairman Carnell read the legal notice. Mr. DeFillippis stated that he did the mailings and would bring the proof in tomorrow.

The applicant is requesting a variance for the purpose of allowing an accessory building on a lot with no main dwelling.

Chairman Carnell said that based on the plan the building is not on Mr. DeFillippis property but located on property belonging to Eagle Creek.

Chairman Carnell asked why there were two buildings on the site plan.

Mr. DeFillippis said that he only has one building; he indicated on the plan where the building might be moved to if the variance was granted.

Paula asked if Mr. DeFillippis didn't have any idea that the building was no located on his own property.

Mr. DeFillippis said that the neighbor, Mr. Davis, told him.

Mr. DeFillippis said that he bought and paid for the property. They come up on Saturday to use the property. Rather than bringing everything (tubes and swimming equipment) back and forth his wife suggested putting up a shed to store things in.

Paula said that no matter what you can't have a building on the wrong property. She said that the board is also looking at some other issues.

The shed is 12' x 24'; built without a permit. There has to be a main dwelling in order to have an accessory building.

Paula said that there are covenants and restrictions in the deed indicating uses that are prohibited on the property including no buildings except a single-family dwelling. There are no outhouses or port-a-potties.

Mr. DeFillippis said that everything is gone except the shed. He had gotten the port-a-potty in for his mom so that she had some place to go.

Paula advised that there were several letters submitted in opposition to the variance:

- 1) Bigness & Schomp – 755 Starlight Road
- 2) Steven Greene – 775 Starlight Road
- 3) M. Newberg representing Mark Davis
- 4) Judith & Gary Knee
- 5) Phil Winograd

The use of the lot is restricted by the deed. Paula suggested that Mr. DeFillippis look at his deed. It is pretty straightforward.

The building department can issue a violation. The shed is actually on the power company property so they will be receiving the violation.

Chairman Carnell asked for public comment.

Mark Davis: my father owns two lots adjacent to Mr. DeFillippis. You can imagine how I felt when I saw the purple outhouse. There is a total disregard for the restrictions and covenants. You don't just pay \$250,000 for a lot and not have an attorney represent you. It just doesn't make sense. I pay a lot of taxes and follow the rules. I take a personal affront to what has been done. My family was one of the first to buy land 30 years ago. We were promised that you wouldn't have a Coney Island next to you.

The criterion for an area variance was discussed.

Feasible alternative: all voted yes

Undesirable change: all voted yes

Substantial request: all voted yes

Adverse effect: all voted yes

Self-created: all voted yes

A negative declaration motion was made by Richard Benson seconded by Bob Hoose.

4 in favor

0 opposed

A motion to deny the variance request was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

THE LIPKOWITZ GROUP – Chris Brunjes

Proof of mailing was submitted. This project was left open from the previous meeting. When calculating the lot coverage the engineer did not include the open decks. The request for an increase in lot coverage was from 10% to 13.25%. That amount, after including the open decks, is now 28%, which includes the proposed additions to F7 & D1.

Paula said there was no additional notice published requesting an increase in the previous amount of lot coverage. Chris said that he changed it on the notice that he sent out.

Paula advised that the notice must also be published in the paper.

Chairman Carnell asked how the 13.25% of lot coverage was arrived at.

Chris said that he was able to use the computer to calculate the square footages of the buildings and add them together.

Paula said that procedurally the board has a problem. I don't see any way around this being done again. The application that we have in the file is inaccurate. There was no publication to the public.

Chairman Carnell asked for documentation of how the % of lot coverage was derived.

Chris asked if a certified statement from the engineer would suffice.

Chairman Carnell agreed it would be satisfactory.

There was no public comment on this item.

A motion to close the public hearing with no action taken was made by Bob Hoose seconded by Chairman Carnell.

4 in favor

0 opposed

Chairman Carnell asked what the status of the project is with the planning board.

Chris stated that they were trying to make substantial progress towards cleaning up the outstanding building permits.

CHAIM LANDAU- Jay Zeiger & Bill Sattler

Chairman Carnell read the legal notice. Proof of certified mailing was submitted.

The applicant is requesting 3 variances for the purpose of (1) increasing the allowed height of a residential dwelling from 30' to 33' (2) reduce the required side yard setback from 15' to 13.7' and (3) the combined side yard setbacks from 40' to 26'.

Chairman Carnell confirmed that the new application and notice was requesting the three variances. There is noting about increasing a non-conforming use.

Chairman Carnell stated at the previous meeting the neighbors were complaining about the drainage. The board instructed the applicant to correct the problem by moving the drain pipes away from the neighboring property.

Schmul Moskowitz confirmed that Bob Scheinman of Woodbourne Lawn & Garden was out to the site and took the drainage out to the road; away from the neighbor's property. The neighbors were said to be happy with the work that was done.

Bill Sattler said that the pipes are buried now and you can't see because of the snow. There is under the basement slab drainage.

Chairman Carnell asked to see a copy of the survey for side yard and height measurements.

Paula said this is the first time the board is seeing this document.

Dan O'Brien did the survey; Bill Sattler provided a survey of the old house with an overlay of the new house being constructed.

The surveyor indicated by letter that the current height of the house is 34.2'. The applicant is requesting a variance for 33'. There intention is to continue to raise the grade to get to the 33'.

Jay Zeiger said that the variance they are looking for is 33'.

Chairman Carnell said they have concerns over the height and the grading of the property.

The height measurement is the average grade taken from the street side to the highest point.

Paula said the board has concerns about how you are going to get to that height.

Mr. Zeiger said it was unfair to criticize at this point in time; the project is under a stop work order. We still have to fix the drainage issue whether or not we get the height variance. The two issues are independent of each other.

Bob Hoose said that the board would like to have our town engineer look at the sight.

Bill Sattler asked why? You have a certified letter for a surveyor.

Chairman Carnell stated that our main concern is environmental.

Paula added that in reality the way you are alleviating the height, the way the property has been built up has caused problems of run-off onto the neighboring property.

Without the grade being brought up the new house was 39'. The side yards are running onto the neighbor's property.

Chairman Carnell said that part of the discussion during the work session was to have our engineer do a site visit and review what has already been done. Look at the slopes that have been created.

Jay Zeiger said we are here for the height, expanding a non-conforming use and the side yard setbacks. We didn't know about the non-conforming issue. 3 issues, essentially, are not our doing. We can deal with them first and then come back for the height.

Chairman Carnell asked for public comment.

Margaret Debski: I am the next-door neighbor. I have a concern about the drainage. Three weeks ago when it rained there was dirt flowing to my driveway then to the street; just mud. I think even if they plant grass it will come onto my property. The old house was one story. Now the deck on the new building is incorporated into the house. It has changed the whole neighborhood and the harmony. And what about the parking? There won't be any room for all the cars.

Paula: they have represented that this is a single-family home.

Ms. Debski: don't you need a special permit for a three-story building; they have no permit

Mr. Debski: I think you should check the foundation. TJ didn't stop; nobody checked. Nobody was there to see it. The dirt level is a problem and there is a height issue. We will get no sun on our property. There are still drainage issues.

Bill Sattler stated that his office did the house plans and the engineering plans.

Jackie Kearns: had a picture of the Debski House from February of 2011. The driveway was bad before the construction; there was a water problem before and now there is a worse problem.

Jay Zeiger: what are we doing here? Whether the house is one, two or three story we will still have to fix the complaint. What exists now will not exist later.

Kearns: this is a nice neighborhood; this is a big deal. We have a small, nice residential area. If this is allowed it will set a precedent that will change the whole neighborhood. They need to get the dirt out and take off the top floor. Where are they all going to park?

Paula: the plans before this board are for a single family home.

Mario Pannullo: I live across the street; are there going to be stairs off the front of the house?

Chairman Carnell said yes; there is a deck shown on the front.

Ms. Pannullo confirmed that there are entry doors on both sides of the basement. They looked at the house plans.

Mr. Pannullo: I don't think the building is being constructed properly. It is not strong. He said that if something happens then someone should know about it.

It was stated that there is a deck on the back of the house. Supposedly within the footprint. The property goes on an angle.

Alice Ketcham: I have been somewhat involved in construction also. It appears to be a cover-up for a badly constructed house. There is a drainage issue; storm water run-off is a problem. If things are not corrected then there will be a bad feeling in the neighborhood.

Chairman Carnell: our concerns are environmental and physical

Ms. Ketcham: this situation should be entirely corrected; built to code and protect the environment and the neighborhood

Chairman Carnell: you have the same concerns as this board

Chairman Carnell: you have represented that this is an original survey; are any signed by the surveyor?

Sattler: I will submit copies to Nora tomorrow

Paula: The board has just been handed these surveys. I am suggesting, as the town's council, that you have time to review them. The board has requested that Dick McGoey, town engineer, go out and review the site. The board has made it clear that they need additional review.

Bill Sattler: I will meet with Dick and someone from the building department.

Paula: the town does not want to incur any expense.

The applicant agreed to pay for the town engineer's review of the site.

Paula: this will be on the agenda for the next meeting.

Chairman Carnell stated that the next meeting would be on February 12th. The building is closed for a holiday; the board will decide whether to hold the meeting on that night or postpone it until the following week.

Shawn MacMichael, Autumn Lane: When you ask for a variance... You do it first then ask? And continuing at their own risk. What does that mean?

Paula advised that the applicant was given a stop work order. If the board then denies the variance any additional money spent would have to be taken down; it would be their loss.

Paula said that the public comment portion of the hearing is over.

MacMichael: I didn't hear anyone say it was over; when did it close.

Paula advised that the Chairman asked for any other public comment and there was none.

Agreeing to talk to him anyway, she advised that our engineer is to review the site. The project will be on the agenda for February 19th. If our engineer doesn't have time to review the site then it will not be discussed that night.

The stop work order remains. There will be no new notice published. The hearing will be left open.

Chairman Carnell advised that the board will need time to review and discuss the engineer's comments.

A motion to reschedule the February 12th meeting until February 19th was made by Chairman Carnell seconded by Bob Hoose.

4 in favor

0 opposed

A motion to leave the Landau hearing open until February 19th was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

CRAIG CARTWRIGHT – Bob Farkas

Chairman Carnell read the legal notice. Proof of mailing was submitted.

The applicant is requesting 5 area variances for the purpose (1) increasing a non-conforming structure (2) increasing the allowed lot coverage from 10% to 21% (3) decreasing one side yard setback from 20' to 10' (4) decreasing the minimum combined side yard setbacks from 50' to 25' and (5) decreasing the minimum front yard setback from 50' to 42'.

Mr. Farkas stated that the property runs straight to the lake.

A letter from the Homeowners Association was received approving the plans for the applicant.

Mr. Farkas showed where the septic tank is. This is a concrete tank. The existing house is closer to the line than the new deck will be.

There was no public comment

The criterion for area variance was discussed.

Feasible alternative: all voted no; based on the size of the lots in that area

Undesirable change: all voted no; the property will be improved

Substantial request: all voted no: based on the existing lot size

Adverse effect: all voted no

Self-created: all voted yes

A negative declaration motion was made by Bob Hoose seconded by Richard Benson.

4 in favor

0 opposed

A motion to grant all the variances as requested was made by Bob Hoose seconded by Pamela Zaitchick.

4 in favor

0 opposed

A motion to adjourn at 8:55 PM was made by Bob Hoose.

Respectfully submitted,



Nora Hughson
Zoning Board Secretary