

APPROVED

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, March 12, 2019



IN ATTENDANCE: Chairman Richard McClernon
Jay Mendels
Ryan Schock
Logan Morey, Building Dept.
Debbie Mitchell, Secretary

Richard Benson
Danielle Jose-Decker, Alternate
Barbara Strong, Alternate

Absent from the meeting are Robert Hoose and Paula Kay

Chairman McClernon called the meeting to order at 7:00 p.m. with the Pledge to the Flag.
Chairman Richard McClernon appoints Danielle Jose-Decker to replace Robert Hoose

A motion to approve the January 8, 2019 minutes was made by Richard Benson and seconded by Jay Mendels
5 in favor, 0 opposed

Appeal by: Nancy Bolgard

Applicant is requesting area variances from §250-9 of the Town of Thompson Zoning Code for the following purpose: Rear yard (road side) setbacks from required 50'-0" to proposed 12'-0".

Property is located at 165 Beaver Lake Road, Monticello, NY: S/B/L: 34.-4-1 in the RR 2 zone.
Brian Benzenberg, representing the applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Benzenberg – They want to put a roof over everything and enclose the deck. Chairman Richard McClernon – Is the new deck same size? Mr. Benzenberg – Yes, same size. Jay Mendels – Your talking about enclosing the deck? Mr. Benzenberg – Yes, plus enclosing the stairs to keep the snow off of them. It will only be three feet off the deck. Jay Mendels – You're not having the stairs go off the front of the deck? Mr. Benzenberg - No, off the side. Richard Benson – You will only cover the porch and not the columns? Mr. Benzenberg – They would like to go out to the columns but what they are hearing they can only go two feet off the deck. Richard Benson – The stairs don't count on the setback.

Chairman Richard McClernon – This is going to be the same size deck it's just going to be enclosed!

Richard Benson – This is on Beave Lake Estates Road which is private correct? Loran – No, Beave Lake Road.

Chairman Richard McClernon – The stairs seem pretty steep if you go off the front. Mr. Benzenberg – Yes, they are. We talked about bringing the stair out a little more then have a landing and then continue with the stairs to make it less steep. Richard Benson – What would you rather do? Mr. Benzenberg – As

long as the steps are enclosed in so they don't have to shovel them it doesn't matter. Jay Mendels – I don't have an issue with the stairs coming off the side. Limiting the projection toward the road and it would look better. I like the idea of the steps on the side.

Jay Mendels – If they do the stair on the side would they be able to get a ramp in the future if needed?
Mr. Benzenberg – Yes.

PUBLIC COMMENT:

No public comment.

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted No
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No. Jay Mendels – They would still be in Non-compliance.
- (3) Whether request is substantial; All voted No
- (4) Whether request will have adverse physical or environmental effects; All voted No
- (5) Whether alleged difficulty is self-created; All voted Yes

A motion to approve the rear yard setback was made by Ryan Schock and seconded by Danielle Jose-Decker
5 in favor; 0 opposed

Appeal by: Irving Bogursky

Applicant is requesting area variances from §250-9 of the Town of Thompson Zoning code for the following purpose: Animal housing from required 150'-0" to proposed 62'-0".

Property is located at 319 Glen Wild Road, Glen Wild, NY S/B/L: 25.-1-11 in the RR2 zone.
Mike Ruff, representing the applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Ruff – I needed more room for my animals so I built a shelter. My Nephew helped me build a lean toon.

Jay Mendels– Why did you not go off this side of the building? Mr. Ruff: I went off the side that is further away from my house.

Jay Mendels – It looks like you already had the animals on the property. Mr. Ruff – Yes, just giving them more shelter. The property is fenced in for the animals.

Chairman Richard McClernon – Why did you not get a building permit? Mr. Ruff – I didn't think I needed one since it was for agricultural use.

Chairman Richard McClernon – Let it be noted this is an Agricultural District 4.

Chairman Richard McClernon – There will be a fine since you built without a permit? Logan Morey – There are some violations that need to be cleaned up. Mr. Ruff – I've been working on the one item but I need help. I'm waiting for my nephew to come and help me as well as the weather to get nicer.

Chairman Richard McClernon – Can you get them all done in three months? Mr. Ruff – Yes.

Chairman Richard McClernon - We got the 239 back and it was local determination.

PUBLIC COMMENT:

No public comments

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

(1) Whether benefit can be achieved by other means feasible to applicant; All voted No, Jay Mendels - Even if he built off the side, he'd still be in compliance.

(2) Undesirable change in neighborhood character or to nearby properties; All voted No

(3) Whether request is substantial; All voted No

(4) Whether request will have adverse physical or environmental effects; All voted No

(5) Whether alleged difficulty is self-created; All voted Yes

Mr. Ruff - We have a court date this Month. Logan Morey – By coming here and getting this approval it will help you with court. Chairman Richard McClernon – It won't be approved until someone from the Building Department goes over and approves everything.

A motion to approve the variances pending the completion of the outstanding violation within the next three months was made by Richard Benson and seconded by Ryan Schock
5 in favor; 0 opposed

Appeal by: Manuel & Phyllis Perry

Applicant is requesting area variance from §250-8 of the Town of Thompson Zoning Code for the following purpose: (1) front yard (lakeside) setback from required 50' to proposed 42.2' (2) side yard

setback required 20' to proposed 9.6. (3) combined side yard setback from required 50' to proposed 28.8' (4) rear yard (roadside) setback required 50' to proposed 35' (5) Percentage of lot coverage from required 10% to proposed 23%

Property is located on 102 Middletown Point Road, Rock Hill, NY S/B/L: 38.-4-15.2 in the RR1 zone without central water/sewer.

Manuel & Phyllis Perry, applicants

Satisfactory proof of mailing was provided to the Board.

Ms. Perry – This was all approved last year and we were hoping to build it last September but it took longer than we expected. We will be taking down the existing building and two garages and build the new one on the existing footprint with a new septic.

Ms. Perry gave the Board a approve letter from Wanaksink Lake home

Chairman Richard McClernon – The new garage will be attached to the house? Ms. Perry – Yes.

Jay Mendels – What is the square footage of the existing house? Ms. Perry – I'm not sure I think it is 2,300/2,400 square footage. Jay Mendels – The new house looks smaller, are you including the garages? Chairman Richard McClernon – You have to remove the garage out of the new house and it's the same size. The existing show's just a rectangle and doesn't include the sunroom. Jay Mendels – Then this is just two story, I'm ok now.

Danielle Jose-Decker – The lot coverage percentage is more than permitted and we have granted others that are similar in this area with the same size so we should have no issues.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

(1) Whether benefit can be achieved by other means feasible to applicant; All voted Yes, Danielle Jose-Decker – They could make it smaller.

(2) Undesirable change in neighborhood character or to nearby properties; All voted No

(3) Whether request is substantial; Jay Mendels voted Yes since its so much larger then what's required but No because it fits in with everything else out there. Overall, it's substantial. Danielle Jose-Decker, Richard Benson, Ryan Schock and Chairman Richard McClernon all voted No.

(4) Whether request will have adverse physical or environmental effects; All voted No

(5) Whether alleged difficulty is self-created; All voted Yes

A motion to approve all the variance was made by Danielle Jose-Decker and seconded by Ryan Schock 5 in favor; 0 opposed

Appeal by: Camp Mayin Tohar

Applicant is requesting area variance from §250-8 of the Town of Thompson Zoning Code for the following purpose: (1) Front yard setback for unit 2A/2B from required 100' to proposed 26' (2) Front yard setback for unit 1A/1B from required 100' to proposed 30' (3) Front yard setback for unit 15A/15B from required 100' to proposed 28'.

Property is located on 20 Fred Road, Monticello, NY S/B/L: 16.-1-5.1 in the RR1 zone without central water/sewer.

Randy Wasser, Wasser Engineering

Satisfactory proof of mailing was provided to the Board.

Mr. Wasser – We are proposing to build three new duplex units. This is a corner lot and the units meet the requirements of 100-foot setback on Fred Road but not on Ranch Road. Code requires for summer camps that they have a minimum 100-foot front yard setback. The buildings we are replacing are 1, 16, 15, and 2. Building 2 is 6 feet off the property line, building 15 is behind a wall that is about 16 feet high. Each building is about 840 square feet. The zoning does allow duplex units on 40,000 square lots with a front yard of 50 feet. Directly across the street is a bungalow colony with buildings closer to the road than these duplex units. I don't believe there is any impact on the neighbor across the street. In order to build these building and be in compliance they would have to be build inside the pool and that's just not feasible.

Danielle Jose-Decker – What are building 1, 2, 15 and 16 being used for now? Randy – Building 15 is a shed, building 16 is a small office and buildings 1 and 2 are staff housing. Danielle Jose-Decker – They will all be staff housing now? Mr. Wasser – Yes. Danielle Jose-Decker – These will be more compliance than with what is there now.

Jay Mendels – I see you will be building over existing sewer line, will that be moved? Randy – Yes, we did a smoke test and found leakage and the line will be replaced.

Richard Benson – Is this a new septic system? Mr. Wasser – Yes, some is and some not. Chairman Richard McClernon – Is there a three-inch main going to the pump house? Mr. Wasser – Yes, going to the pump house.

Mr. Wasser – We can't put the buildings in the back because of wetlands.

Jay Mendels – Overall, we are increasing the number of units, and this is not an issue? Mr. Wasser – Not an issue, the sewer has capacity for these addition units.

Richard Benson – Is there a grade issue where you are putting the building? Randy – No, its pretty even as you come off the road. It does slope down a little.

Jay Mendels – Is there any intensions to have a driveway from the units to road? Mr. Wasser – No.

Ryan Schock – What are they going to be built on? Mr. Wasser – The building will be built on piers. Ryan Schock What are they skirted with? Mr. Wasser – I don't know.

Chairman Richard McClernon – We can request no latus to the Planning Board.

PUBLIC COMMENT:

No public comments

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted No
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No
- (3) Whether request is substantial; Richard Benson, Jay Mendels, Danielle Jose-Decker, Ryan Schock voted No, this will be an improvement. Chairman Richard McClernon Voted Yes
- (4) Whether request will have adverse physical or environmental effects; All voted No
- (5) Whether alleged difficulty is self-created; All voted Yes

Chairman Richard McClernon – Is there a 239 for this since it's a bungalow colony? Logan Morey – No, we don't need one.

A motion to approve requested variances with a note to the Planning Board to have sold composite skirting and no latus was made by Danielle Jose-Decker and seconded by Jay Mendels
5 in favor; 0 opposed

Appeal by: Michael Prokop

Applicant is requesting area variance from §250-7 of the Town of Thompson Zoning Code for the following purpose: Accessory structure closer to the road then the primary structure.

Property is located on 34 Gregory Road, Monticello, NY S/B/L: 56.A-3-3 in the SR zone with central water/sewer.

Michael Prokop, applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Prokop – I cannot put a garage behind the house since there is a swamp there. I was going to put it by the road and then changed my mind. It will be setback from the road.

Mr. Prokop shows the Board pictures of his property.

Chairman Richard McClernon – Your going to be 90 feet off the road! Mr. Prokop – And 27 feet off the septic system, right behind it.

Chairman Richard McClernon – Is it flat or an embankment between the road and the building? Mr. Prokop – There is my driveway, septic and then the house. Chairman Richard McClernon – Is this a tree lined street? Mr. Prokop – All trees, I don't want to cut any trees.

Danielle Jose-Decker – Is it always wet behind the house or is just this year? Michael – Always, there is a stream there.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted No
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No
- (3) Whether request is substantial; All voted No, Chairman Richard McClernon -Due to the wetlands.
- (4) Whether request will have adverse physical or environmental effects; All voted No
- (5) Whether alleged difficulty is self-created; All voted Yes

A motion to approve the requested variances was made by Danielle Jose-Decker and seconded by Jay Mendels
5 in favor, 0 opposed

Appeal by: Andrei Patergin

Applicant is requesting area variance from §250-7 of the Town of Thompson Zoning Code for the following purpose: (1) Rear yard setback from required 40' to proposed 27'

Property is located on 26 Chester Street, Rock Hill, NY S/B/L: 52.-11-2-14 in the SR zone with central water/sewer.

Andrei Patergin, applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Patergin – I currently have a deck and it's falling apart and I need to replace it. Our back yard is slanted and it's hard for the kids to play so we have decided to put in a bigger deck. I went to get my permit and I was told I needed a variance.

Richard Benson- How big is the existing deck? Mr. Patergin – I think it's about 8' X 10' feet. Logan Morey – I think it's bigger but I have to pull the file. Mr. Patergin- It might be more like 12' X 10' feet.

Jay Mendels – Are there any houses by your house and if so, is there any kind of buffer? Mr. Patergin – Yes, my house is actually higher up so I look down on my neighbors.

Richard Benson – Is this off the first or seconded floor? Mr. Patergin – It's off the seconded floor but the slope is so big that the basement has a door. Logan Morey – It's actually the first floor because of the slope.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted No, Jay Mendels – He would be asking for a variance no matter what.
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No
- (3) Whether request is substantial; All voted No
- (4) Whether request will have adverse physical or environmental effects; All voted No
- (5) Whether alleged difficulty is self-created; All voted Yes

A motion to approve all variances was made by Ryan Schock and seconded by Richard Benson
5 in favor; 0 opposed

Appeal by: Edgar Wooley

Applicant is requesting area variance from §250-8 of the Town of Thompson Zoning Code for the following purpose: Accessory structure setback to main structure from required 10' to proposed 3'.

Property is located on 176 North Shore Road, Rock Hill, NY S/B/L: 37.-4-19 in the RR1 zone.

Edgar Wooley, Applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Wooley – I would like to put a 22' x 14' foot garage near my house. I would like to put it 10 feet away but I have over head wires and can't build under the wires.

Danielle Jose-Decker – Why not do a smaller building? Mr. Wooley – Then I couldn't use it as a garage.

Chairman Richard McClernon – What is the size of the shed you have there now?

Mr. Wooley – 12' x 12'.

Danielle Jose-Decker – Is the three feet permissible within the state code? Loran – Yes. Danielle Jose-Decker – So it's a town required variance only? Logan Morey- Yes.

Jay Mendels read's the approval from the Wanaksink Club.

Danielle Jose-Decker – Will the town require a fire wall in the garage? Logan Morey – I don't believe it's required. Mr. Wooley – What is that? Logan Morey – Fire rated sheet rock. Mr. Wooley - I might want to do that anyway.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted No, Chairman Richard McClernon - Because of the lake front lot and the electric lines he is limited.
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No
- (3) Whether request is substantial; All voted No
- (4) Whether request will have adverse physical or environmental effects; All voted No
- (5) Whether alleged difficulty is self-created; All voted Yes

A motion to approve the variance was made by Richard Benson and seconded by Ryan Schock
5 in favor; 0 opposed

Appeal by: Shea Schwartz

Applicant is requesting area variances from §250-10, §250-34D(6) and §250-34E of the Town of Thompson Zoning Code for the following purpose: (1) Summer camps front yard setback from required 100' to proposed 18.3' (2) All bungalows shall be separated from adjoining bungalows from required 25' to proposed 24.1' and (3) Additions to bungalows must be made on full foundations from required full foundation to proposed piers to frost depth.

Property is located on State Route 42, Monticello, NY S/B/L: 10.-6-2.2 in the HC-1 zone with central water/sewer.

Joel Kohn

Shea Schwartz, applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Schwartz – I never did construction upstate and I was told that someone would take care of these applications for me. My family grew and I needed more space. Mr. Kohn - He had a contractor and the contractor said he would get all the permits and he never did. Jay Mendels – Did this contractor do other units? Logan Morey – No, there were several different contractors.

Chairman Richard McClernon – Is there a court date set for Mr. Schwartz? Logan Morey – The property in whole. Chairman Richard McClernon – Do you own this bungalow? Mr. Schwartz – No, I'm a shareholder.

Richard Benson – Are there any outstanding violations? Logan Morey – That's why they are going to court.

Danielle Jose-Decker – Can you see this addition? Mr. Kohn - Not when you drive by. Ryan Schock – Only if you walk behind the buildings.

Ryan Schock shows the board in the picture the phone line that is lying on top of the building. Richard Benson – Is there an issue with the building being under a phone line? Logan Morey – No, just electrical.

Danielle Jose-Decker – The separation was preexisting and the same with the full foundation code?

Logan Morey – Yes, the foundation issue is with our code.

Ryan Schock – These are the units that they are putting up on piers correct? Mr. Kohn – I don't know that much about this place just this project.

Chairman Richard McClernon – What kind of skirting do you have? Mr. Kohn - The siding goes all the way down to the ground.

Richard Benson – Can we make a contingent that we get all the violation at this bungalow colony done first before approval? Logan Morey – No they are all individual violations for other things besides Mr. Schwartz.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; Jay Mendels – Could they have built the other way? Ryan Schock – Not on the side the building are too close. Logan Morey – Maybe out the front but I believe this is a bedroom correct? Mr. Schwartz – Correct. Logan Morey – So normally you would walk into a kitchen then a dining room not a bedroom first. Chairman Richard McClernon – You could re-organize the whole bungalow. Mr. Kohn - That would be a huge cost. Mr. Schwartz – The Corporation wouldn't give me permission to build anywhere else, it would have ruined the whole view. Jay Mendels – Could they have built up instead? Richard Benson – These are not frost protected piers. Jay Mendels – Then update. Logan Morey – Then they would be here for variance for going over the square footage. Chairman Richard McClernon, Danielle Jose-Decker, Ryan Schock and Jay Mendels voted yes, so we don't allow other project to ignore the building process. Richard Benson voted No.
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No
- (3) Whether request is substantial; All voted No
- (4) Whether request will have adverse physical or environmental effects; All voted No
- (5) Whether alleged difficulty is self-created; All voted Yes

A motion to approve all the variances was made by Danielle Jose-Decker and seconded by Richard Benson
4 in favor; 1 opposed by Jay Mendels

Appeal by: Thompson Mews

Applicant is requesting area variances from §250-7 and §250-28C(1)(a) of the Town of Thompson Zoning code for the following purpose: (1) Multiple dwelling building length from required 160' to proposed 162' (2) Building height from required 35' to proposed 44.5' (3) Density per acre from required 1,000 sq. ft to proposed 910 sq. ft.

Property is located at Waverly Ave & Cold Spring Road, Monticello, NY S/B/L: 29.-2-15.2/29.-2-15.3 | the SR zone with central water/sewer.

Jay Zeiger, ESQ – Kalter, Kaplan, Zeiger & Forman
Alan Zaretsky, Et-Al Management
Joel Kohn, representing the applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Kohn - This project is 184 units that were approved back in 2005. We could not do the project back in 2005 because of lack of water. This is now a perfect time to get this done and we will work with the Town on upgrading the water system. Mr. Zeiger - The demand for this type of house was limited back in 2005. This project is perfect for casino workers. It will be one to two-bedroom apartments.

Mr. Kohn –The project is for 6 building. The code has changed. This is the same approved site plan that was approved back in 2005. Mr. Zeiger – The variances are because of the zoning change.

Chairman Richard McClernon – How many units? Mr. Zaretsky - I don't have the exact number it's about 60/40. It's mostly 60 one-bedroom units and 40 two-bedroom units. Chairman Richard McClernon – This is workforce rentals? Mr. Zaretsky – Yes

Danielle Jose-Decker – Are the two bedrooms also 920 square feet? Mr. Kohn - No most of the units are larger than 1,000 square feet.

Mr. Kohn - When first approved there was no limitation for housing. Richard Benson – The original plan was for 13; 24 units. Mr. Kohn - The original density was 11.24 density it's now 13.48 acres because of the new zoning. We didn't have to deducted the slopes and wetlands and now we do so the density is more.

Chairman Richard McClernon – Are you floating the house in the wetlands? Mr. Kohn – That was part of the original approval. At that time, it was 2 to 1 on the wetlands.

Ryan Schock – The entrance on cold spring road is diagonal for the old town bar? Mr. Zaretsky – Yes.

Chairman Richard McClernon – Where do they get their water from? Mr. Kohn - That was part of the issue with the original proposal. We have talked to the Town Board about getting an extension on the water system.

Chairman Richard McClernon – How old is the damn on that property? Mr. Zaretsky – I don't know. Chairman Richard McClernon – Are there any plans to upgrade it? Mr. Zaretsky – We would do it if it needs to be done.

Jay Mendels – Why the 44.5' on building height and not staying with the 35'? Mr. Kohn - That was the original approval. Mr. Zaretsky – We need it to get all the living space. Also, this way we don't take up as much land space. Jay Mendels – Is there a floor restriction on a building? Logan Morey - It's a height restriction and that is why they are here. Jay Mendels – If the height is 35' that would fit 3 floors so with an extra 9 feet you're going to fit in 5 stories? Jay Zeiger – You're going to have to do some underground apartments. Danielle Jose-Decker – Its say's there is underground parking, is that calculated in the height? Logan Morey – It's from the parking garage and up. The parking will be below grading. The height is from grade up. Mr. Zaretsky – The maximum height is 44.5' feet. Jay Mendels –

All the homes in this locating are signal story homes. Mr. Zaretsky – There are no houses on either side of use. Ryan Schock – But there are houses along Cold Spring Road. Mr. Kohn - The back-side borders the Village. Chairman Richard McClernon – Was the village notified as well? Melinda Meddaugh – its part of the County’s 239 review. Chairman Richard McClernon – I believe they were waiting on the County’s 239 review.

Jay Mendels – Five stories would be the garage and four stories for living space.

Danielle Jose-Decker – We don’t have to approve the number of stories. Jay Zeiger – You’re just approving the height.

PUBLIC COMMENT:

Phil Kavecki. - Someone wants to build a 4-story building with swimming pools and tennis courts that’s from this table to the wall away from my house. There are six homeowners that this property will boarder. Jay Mendels – None of your neighbors could come tonight? Mr. Kavecki – They are rentals I don’t know where they are. Mr. Kavecki shows Mr. Kohn where his house is located on the map. What are you going to do with the brook? Mr. Kohn - First this is a project that was approved in 2005 and this is not a new project. Mr. Kavecki - How are you going to put-up four-story building and cut down all the trees? I heard the board say they don’t like to cut down trees. What will my property value be after this? Mr. Kohn - Your property will probably go up since they are going to improve the water supply. Mr. Kavecki - I have Cozy Acers across the street but those are one story buildings and they left the trees. Mr. Kohn – Another thing is to put this on the Village land and that would eliminate the amount of buildings but increase the floors. Mr. Kavecki - What about putting it up on the hill? Mr. Kohn - No, there are wetlands there. Chairman Richard McClernon points to the map and asks about another spot. Mr. Kohn – We can’t because that property is very contoured. These buildings will not be on the property line. The building itself is 50 feet from the property line making it 250 feet away from your house. Mr. Kavecki – It sounds like to me that this is ready to rock and roll. Jay Mendels – Not necessary, he is talking about the approval before. Mr. Zaretsky – With due respect, back in 2005 they did say that this project was good for this spot. We are here today to make sure it accommodates everyone. Mr. Kavecki – What kind of houses? Chairman Richard McClernon – Workforce housing, 1 to 2-bedroom homes for workers at the casino. Mr. Zaretsky – I will try my best to accommodate you the best I can. Jay Mendels – DEC has been undated on these plans? Mr. Kohen – Not yet. Jay Mendels – And what is going to be done with these wetlands? Jay Zeiger – We are filing these in and creating new wetlands. Mr. Kavecki – Where is the water coming from? Mr. Zaretsky – The Town’s water system. Mr. Kavecki – The Town can’t handle that. Mr. Zaretsky – That is part of the project, we will help the Town improve the water supply.

A motion to hold the public meeting open until we get a 239 from the County was made by Danielle Jose-Decker and seconded by Jay Mendels
5 in favor; 0 opposed

Appeal by: Center for Discovery

Applicant is requesting use variance from §250-7 of the Town of Thompson Zoning Code for the following purpose of converting an 8-bed residence currently under construction from original

residential "R" occupancy use to Nursing Home "I-2" occupancy to serve nor ambulatory medically frail residents.

Property is located at Old Liberty Road, Monticello, NY S/B/L: 2.-1-31.1 in the SR zone without central water/sewer

Glen Smith, Engineer

Satisfactory proof of mailing was provided to the Board.

Mr. Smith - This is a use variance. The Center owns this 14-acre property and the property next to it where they have a building with medically frail residence that was built five or six years ago. We got approval for this building for eight regular residence. They have gotten an in fluctuation for more medically frail residents so this building was under construction at the same time. They decided to change this housing along with the housing they are building on Holmes Road to the new design for medically frail residence. They went to the building department and got all the correct application and had the engineer and architect start working on the changes. Before this was considered a "R" residential occupancy but with the medically frail it falls into the I2. Medically frail patients need assistants leaving the building. And according to the Town of Thompson's zoning definition of a Nursing home it for ageing people who need assistance leaving the building so, the Building Department felt that this is no longer considered a residence but a Nursing home. Nursing homes are not permitted in the SR zone. The Nursing home on Holmes Road is in the RR1 zone so that one's is ok. The building looks the same just needs to be upgraded to make it a Nursing home. In the application I said that there is roughly \$70,000 worth of extra work to turn this into a Nursing home. If this is turned down then they will have to build another building on some property that is in the R1 zoning. But you're talking for a 3,200 square foot building they would have to spend half a million dollars to build and now they would not have a location for these residences. Jay Mendels – If denied will you go back to the original plan?
Mr. Smith - Yes.

Danielle Jose-Decker – Have they started the changeover work yet? Mr. Smith - Yes. The sprinkler system, holding tanks and the roadway will all be shared between this building and the building already on the property.

Jay Mendels – This existing building falls under the Nursing home, did you get variances for it when it was built? Mr. Smith - No. Jay Mendels – Are there no other residential homes on this road? Mr. Smith - Just the Sush's, most of the property is owned by the Center.

Jay Mendels – This is all shared facility correct? Mr. Smith - Yes, there is just a property line between them.

Danielle Jose-Decker – Nursing homes are permitted in the RR1 area and there is no way this property attaches to the RR1 land down the road? Mr. Smith – No it does not.

Chairman Richard McClernon – How long has this existing building been operating? Mr. Smith - About ten years? Danielle Jose-Decker – Do they have other locations where they can put this type of

building? Mr. Smith – On Holmes Road. Danielle Jose-Decker – What about the place in Rock Hill? Mr. Smith - That is an 18-bed specialty hospital.

Danielle Jose-Decker – What other things have they looked at if this is denied? Mr. Smith - Can't really say. When this first came up it was on the Holmes Road project and it seemed like a no brainer to just go to the Planning Board and get it changed. But then we found out that this is not permitted here. Logan Morey – Did that zone change during the 2005 zoning change? Mr. Smith – I don't know.

Chairman Richard McClernon – Where are they going to put the 8 people who were suppose to go into that building? Mr. Smith – I don't know.

Jay Mendels – If we don't approve will you still utilize the same facility for both building? Mr. Smith – Yes, most of the work is in house and needs to be done.

Chairman Richard McClernon – What financially is going to change? Mr. Smith - When I put the application together, I summarized the changes, building upgrades from the 'R' to I2 classification, constructed additional fire walls estimated about \$28,000, upgrading the sprinkler system is about \$24,000, upgrade the fire alarm is \$9,000, engineering cost is \$6,500 with a ruff total of \$ 67,500. What I didn't put into the application was the relocation cost of the medically frail residence would be around \$425,000.

Jay Mendels – But we have to show that you cannot realize a reasonable return for this project not a future project. Mr. Smith – But your saying what would the cost to the Center be if this is denied and that would be around half a million dollars because they have to provide housing for the medically frail residence that they have already excepted into the Center. Jay Mendels – Maybe they shouldn't have jumped the gun. Mr. Smith – They didn't realize at the time this was going to be an issue. Danielle Jose-Decker – Can some of the changeover costs be reversed? Mr. Smith – Yes, because some of the things have not been built yet. But some has been done.

Chairman Richard McClernon – Can the Board change the use in the zoning? Melinda Meddaugh – Yes, that would be a local law. Mr. Smith – If this property butted the R1 property we could have asked for a zoning change to this location.

Danielle Jose-Decker – It seems that this should be a special use permit. It seems for me hard to have this board do something that the town board seems by legislative intent not to express a desire to do. Richard Benson – And under the criteria it's really hard for us to justify it. Jay Mendels – It has to meet all the Use Variance Criteria.

Chairman Richard McClernon read's over the Use Variance Criteria for discussion only.

1. Cannot realize a reasonable return – substantial as shown by competent financial evidence; Chairman Richard McClernon – which they can because they were going to use it for an 8 bed residence not for medically frail.

2. Alleged hardship is unique and does not apply to substantial portion of district or neighborhood; Chairman Richard McClernon – it is unique because it is unique

3. Requested variance will not alter essential character of the neighborhood; Chairman Richard McClernon - Nope

4. Alleged hardship has not been self-created. Jay Mendels – But has been self-created and would be hard to argue.

Chairman Richard McClernon – So that would be two out of the four. Mr. Smith - It's not your typical Nursing home with more than two stories and brick siding. This is a residence and people stay in side.

Jay Mendels – No other way they can change the definition from Nursing home? Logan Morey – We have had several discussions and the only other thing would be Hospital and that would be harder.

Mr. Smith - The Towns definition of a Nursing home; "A home for the aged, where chronically ill or incurable persons are received, kept or provided food, shelter and care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. " Eric said if we took out the word aged then its chronically ill people and that we should go with the Nursing home definition. Chairman Richard McClernon – What's the State code? Logan Morey – The 12, institutional. But when it's an ambulatory then it's a signal family house. Mr. Smith – We need a place to house these people.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

Danielle Jose-Decker – Is there a way we can think about this some more? Chairman Richard McClernon – Don't we need a 239 from the county?

Melinda Meddaugh – This is a County road so your going to need a 239 from the County.

Jay Mendels – I would like our legal counsel here before we make a final decision.


A motion to leave the public hearing open until we get a 239 was made by Danielle Jose-Decker and seconded by Richard Benson

5 in favor; 0 opposed

A motion to close the meeting at 9:12 pm was made by Ryan Schock and seconded by Chairman Richard McClernon

5 In favor; 0 opposed

Respectfully submitted,



Debbie Mitchell

Secretary

Town of Thompson Zoning Board of Appeals

