

**TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
Tuesday, April 12, 2016**



**APPROVED**

**IN ATTENDANCE:**

Chairperson Richard McClernon, Richard Benson, Brian Soller, Pamela Zaitchick, Jay Mendels (alternate) Kathleen Brawley, Secretary, Paula Elaine Kay, Attorney and James Carnell, Director of Building/Planning/Zoning

Absent: Robert Hoose and Jose DeJesus, Alternate

Chairman McClernon called the meeting to order at 7:00 p.m. with the Pledge to the Flag.

A motion to accept the March 8, 2016 meeting minutes was made by Richard Benson and seconded by Pamela Zaitchick.  
4 in favor, 0 opposed

**MAYER GELBART AND MAYA GELBART**

**Property is located in the SR Zone  
368 Fraser Road, Monticello, NY - S/B/L: 10.-8-8.2  
Tim Gottlieb, P.E.**

Chairman McClernon read the public notice, as follows: Applicants are requesting area variances from §250-7 of the Town of Thompson Zoning Code for the following purposes: 1) Permitting one reduced side yard setback from the required 15 feet to 5 feet; and 2) Permitting reduced combined side yard setbacks from the required 40 feet to 20 feet. Applicants are also requesting an area variance from §250-21(B)(4) of the Town of Thompson Zoning Code for the purpose of increasing a non-conforming building or structure.

Satisfactory proof of mailing was provided to the Secretary.

Mr. Gottlieb advised that the applicants previously appeared before this Board and received variances for a 4x12' addition. During the construction, they increased the addition to 5x24' without prior approval. The increase was due to the fact that there was a water heater that needed to be replaced and they enclosed that area when they replaced it. Attorney Paula Kay asked if Mr. Gottlieb had photos of the building and he did not. Richard Benson asked about what was previously approved versus what they are looking for tonight and Mr. Gottlieb showed the Board the same on the site plan. Attorney Paula Kay noted that when the Board approved this in 2015, the purpose of the second approval was to make an addition in line with the existing houses. The Board noted that they have gone much further than that. They also noted that it was done in total disrespect of the Board's previous wishes and direction. Jay Mendels asked if one part of the addition was done due to the replacement of the water heater, was the other done for any structural reason and Mr. Gottlieb advised that he did not think so.

Town of Thompson ZBA  
April 12, 2016

There was no public comment.

Richard Benson advised that if the Board approves this variance, he feels the applicant should be fined for building without a permit. Attorney Paula Kay noted that this Board cannot set a fine but that a stop work order is in effect and the Building Department will pursue the matter further. The Board felt that the addition should be taken down, since the applicants built the same in blatant disregard of the proper procedures. Attorney Paula Kay thought that the Board may want to ask the Building Dept. to prepare a violation, send the applicants to Court, have them plea guilty, pay the fine and then come back before this Board. The Board felt that the issuance of a fine does not stop the problem from happening, as it is just a slap on the wrist.

**AREA VARIANCE CRITERIA:**

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? All voted yes. The Board felt that it was built in opposite to the variances previously granted, even after they spent several meetings discussing the same with the applicants.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? 3 voted yes; 1 voted no (Benson).
- (5) Is the alleged difficulty self-created? All voted yes.

A motion to approve the two variances as requested was not made by the Board.

A motion to deny this application was made by Pamela Zaitchick and seconded by Brian Soller 4 in favor; 0 opposed

**DAVID OLSEN**

**Property is located in the RR-2 Zone**

**36 Canal Road, Wurtsboro, NY - S/B/L: 66.-8-2**

Tim Gottlieb, P.E.

Chairman McClernon read the public notice, as follows: Applicant is requesting area variances from §250-9 of the Town of Thompson Zoning Code for the following purposes: 1) Permitting an increased lot coverage percentage from 10% to 11.6%; 2) Permitting one reduced side yard setback from the required 20 feet to 16 feet; 3) Permitting an additional reduced side yard setback from the required 20 feet to 7 feet; 4) Permitting reduced combined side yard setbacks from the required 50 feet to 23 feet; 5) Permitting a reduced front yard setback from the required 50 feet to 33 feet. Applicants are also requesting an area variance from §250-19(A)(2) of the Town of Thompson Zoning Code for the purposes of permitting reduced contiguous land area from the required 40,000 square feet to 12,532.4 square feet.

Town of Thompson ZBA  
April 12, 2016

Satisfactory proof of mailing was provided to the Secretary.

Mr. Gottlieb and the Board discussed the variance requests on the site plan provided. The new home will be a three bedroom, two story home. There will be two bedrooms upstairs and one downstairs. Previously, there were four bedrooms which were very small. The Board discussed the distance of the house from the water line. The distance of the deck from the property line was also discussed to ensure it is correctly measured to avoid having the applicants come back before the Board at a later date.

The Board asked the applicant if Wolf Lake Homeowner's Association provided a letter consenting to this application. The applicant advised they had not, as they thought they were waiting for this Board's approval.

**AREA VARIANCE CRITERIA:**

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

A motion to approve the variances requested, subject to the Board's receipt of the letter of approval from Wolf Lake Homeowner's Association, was made by Brian Soller and seconded by Richard Benson.

4 in favor; 0 opposed

**LAKE VIEW ESTATES MONTICELLO, LLC**

**Property is located in the SR Zone**

**329 Anawana Lake Road, Monticello, NY - S/B/L: 8.-1-31.1**

Jay Zeiger, Esq. and Leonard Brown, P.E.

Chairman McClernon read the public notice, as follows: Applicants are requesting area variances from §250-26(B)(1) of the Town of Thompson Zoning Code for the purpose of increasing the maximum number of dwelling units per acre from the permitted 1.9 units per acre to 2.1 units per acre.

Satisfactory proof of mailing was provided to the Secretary.

Mr. Zeiger advised that the developer of this project is the same as Forest Park. This is their next project. The parcel is approximately 51.49 gross acreage. The unique part of this parcel is that wetlands run the entire length of the parcel. Under Town Code, there is a 100 foot buffer included

Town of Thompson ZBA  
April 12, 2016

on top of any wetlands. The 100 feet is the entire width of each side. 10.73 acres would be the buffer, which is more than wetlands. Under present code without the variance, we are permitted 60 houses. The developer wants 68 houses. There is one home already existing on the lot, which will probably be the caretakers home. Chairman McClernon asked about water service and Mr. Zeiger advised that a central well is planned. Attorney Paula Kay advised that the plans note that they may attach to Town water service. Mr. Brown advised there would be drilled wells with a central water facility on the site. Attorney Paula Kay checked the code to ensure this was permitted in cluster developments. Code advised that cluster developments must be serviced by central water and sewer. Mr. Zeiger advised that the Town Board has authorized to prepare an extension for the sewer district to include this property. The fees have all been paid by the developer and it is currently being worked on by the Town Engineer and Town Attorney Michael Mednick.

Attorney Paula Kay noted that Donald and Nancy Fraser were not noticed, but that this is not substantial to the application.

Chairman McClernon asked what the impact on the wetlands would be once the 68 homes are built and Mr. Brown advised that the proposed wells will be deep and it should not be impacted. The drilling permit is issued by the Board of Health and they will monitor their drilling. No drilling is permitted in the wetlands. Pamela Zaitchick asked for specifications of the homes. Mr. Brown advised that they are 26 to 28 feet by 56 feet long, similar to Forest Park. The Board noted that this matter will go before the Planning Board and provide full design specifications. Mr. Zeiger advised that when the application goes back before the Planning Board, the DEC will be involved.

Richard Benson noted that they are only looking for 8 additional homes and several are detached from the cluster. Mr. Brown advised that the plan submitted to the Board is a preliminary one.

Brian Soller questioned road and parking and Mr. Zeiger advised that it will be addressed by the Planning Board but that they will most likely be private roads.

Chairman McClernon asked how they calculate the lot percentage if they don't know how large the homes will actually be. Mr. Brown advised they used the Forest Park units as a guide. Chairman McClernon asked if the applicant could provide an updated map showing the stereotypical unit size. Attorney Paula Kay advised that this way, the Board can verify that the lot coverage is not an issue. Mr. Brown asked what the code considers for lot coverage and the Board discussed the requirements. Jay Mendels asked why the unit size cannot be reduced to permit the allowed number of units? Mr. Zeiger advised that the size is not the issue, it is the number of the units. Mr. Mendels asked why they cannot keep the number of homes as permitted in Code. Pamela Zaitchick advised that the Code is written for a reason and there really is no reason for the application to build in accordance with the Town Code requirements. Mr. Zeiger advised that the optimal sizing for a community such as this would be 70-72. Mr. Zeiger feels this lot is unique because of the substantial amount of buffer from the wetlands. The entire width of the lot is wetlands. Pamela Zaitchick advised that the lot owner knew this issue when they purchased the lot. The Code was written for a reason. Mrs. Zaitchick feels that the project should be built pursuant to Code. Attorney Paula Kay noted that the Board really needs more information to

Town of Thompson ZBA  
April 12, 2016

proceed before they can make a determination. In addition, the County's review under GML §239 has not yet been received, as the County is looking for additional information.

Richard Benson asked what the exact acreage of the parcel is, less the buffer. Mr. Zeiger advised that there is 51.49 total acres and the buffer is 10.73 acres. Mr. Zeiger confirmed that all buildings will be built in the usable acreage.

Chairman McClernon asked for an updated site plan reflecting the actual building size. Mr. Brown asked if this Board was familiar with Forest Park and the Board confirmed it was. Mr. Brown advised that this project will be identical to that project, even using the same developer.

Chairman McClernon noted that the DEC noted some restriction for animals on the site, but it apparently is not a site restriction. Chairman McClernon asked if this matter would be referred to the Town's Conservation Council and Attorney Paula Kay advised that this is something the Board can suggest. Jay Zeiger advised that the applicant will have to prepare a long form EAF and any issues will be triggered at that time. It will not be ignored and most likely addressed by the Planning Board.

The Board asked that the applicant provide them with detailed building information as well as mail a copy of the Notice to Donald and Nancy Fraser, who were not served previously.

A motion to keep the public hearing open to the May 10, 2016 meeting was made by Pamela Zaitchick and seconded by Richard Benson.

4 in favor; 0 opposed

In addition to the foregoing, the Board also wants to see the building separation calculations, setback amounts so they have an idea. They are all "+/-" on the plan, are varied and not specific. Attorney Paula Kay asked if recreation was shown on the plan and Mr. Brown confirmed it was. Mr. Zeiger advised that this plan was preliminary to show the Board what they want to do. They are simply trying to get the lot count and Chairman McClernon advised they need the requested information before they can make a determination.

Attorney Paula Kay suggested the applicant get the requested information the Board and come back for the May 10, 2016 meeting. Mr. Zeiger advised they will try to come back with more details.

**JOSEPH COLELLO AND TONI COLLELLO**  
**Property is located in the RR-2 Zone**  
**122 Canal Road, Wurtsboro, NY - S/B/L: 66.-17-4**  
**John Morreale**

Chairman McClernon read the public notice, as follows: Applicants are requesting area variances from §250-9 of the Town of Thompson Zoning Code for the following purposes: 1) Permitting an

Town of Thompson ZBA  
April 12, 2016

increased lot coverage percentage from 10% to 11.4%; and 2) Permitting a reduced front yard setback from the required 50 feet to 29 feet. Applicants are also requesting an area variance from §250-19(A)(2) of the Town of Thompson Zoning Code for the purposes of permitting reduced contiguous land area from the required 40,000 square feet to 13,068 square feet.

Satisfactory proof of mailing was provided to the Secretary.

Richard Benson recused himself from hearing this matter as he works for the applicant's representative. Chairman McClernon appointed Jay Mendels as a voting member for this application.

Mr. Morreale noted that he heard the Board's comments on the other application and advised that this property's original structure was 52 feet on the roadside, 56 feet on the lake side and 20 feet from the corner and 17 feet from the porch. Attorney Paula Kay confirmed the variances requested.

Pamela Zaitchick asked if the front yard was waterfront and Mr. Morreale confirmed it was. Mrs. Zaitchick advised that the applicant is changing the distance from the house to the water. Attorney Paula Kay advised that this was not the case, it was 56 feet originally from the property line. It will not be 29 feet from the corner of the deck to the property line. Chairman McClernon noted that the garage makes the difference. Jay Mendels noted that Wolf Lake consented to this application and approved the same. The Board was in receipt of Wolf Lake's letter of consent.

Chairman McClernon asked if the garage could be relocated to correct the variances? Mr. Morreale thought it might be able to be, but the applicant wants an attached garage. There is a well on the property and Pamela Zaitchick asked if the distance was correct and Mr. Morreale advised it was in compliance and noted in the plan. Chairman McClernon asked about the septic system and Mr. Morreale showed the Board the location of the same on the plan. Mr. Morreale also showed the Board the location of the neighbor's well in relation to this applicant's septic system which is sizeable. Pamela Zaitchick noted that there was no basement noted on the plan and Mr. Morreale noted that there would be a small crawlspace.

There was no public comment.

#### AREA VARIANCE CRITERIA:

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no, since any new construction would need a variance.
- (2) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

Town of Thompson ZBA  
April 12, 2016

A motion to approve the variances requested was made by Brian Soller and seconded by Jay Mendels.

4 in favor; 0 opposed

**JAMES CARNELL, SR. AND JUDITH CARNELL**

**Property is located in the RR-2 Zone**

**Hiram Jones Road, Monticello, NY; S/B/L: 61.-1-38.3**

**James Carnell, Jr.**

Chairman McClernon read the public notice, as follows: Applicants are requesting area variances from §250-16(B) of the Town of Thompson Zoning Code for the purpose of permitting three accessory structures to be closer to the fronting street than the main building.

Satisfactory proof of mailing was provided to the Secretary.

Mr. Carnell provided the Board with a partial survey map of the premises. There was a 20x20 foot hunting cabin on the site. There is 22 acres; this is the only flat spot on the entire 22 acres. One of the sheds was removed but was utilized as a changing area for a small pool on the site. Mr. Carnell had the applicants move another shed away from the property line. Attorney Paula Kay asked what the three structures were used for and Mr. Carnell advised they are sheds.

**AREA VARIANCE CRITERIA:**

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

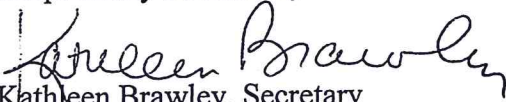
A motion to approve the variances requested was made by Pamela Zaitchick and seconded by Brian Soller.

4 in favor; 0 opposed

A motion to adjourn the meeting at 8:08 p.m. was made by Brian Soller and seconded by Richard Benson.

4 in favor; 0 opposed

Respectfully submitted,

  
Kathleen Brawley, Secretary  
Town of Thompson Zoning Board of Appeals

Town of Thompson ZBA  
April 12, 2016