

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, December 12, 2017



IN ATTENDANCE: Chairman Richard McClernon Richard Benson
Robert Hoose Jay Mendels
Paula Elaine Kay, Attorney
James Carnell, Director of Building/Planning/Zoning
Debbie Mitchell, Secretary

APPROVED

Absent from the meeting: Jose DeJesus

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

A motion to approve the November 14, 2017 minutes was made by Richard Benson and seconded by Robert Hoose

4 in favor, 0 opposed

Appeal by: Laurie Reina:

Property is located at 32 Highview Terrace, Rock Hill, NY: S/B/L: 55.-4-18.3 in the SR zone with central water/sewer

Laurie Reina, owner

Applicant is requesting area variances from §250-7 of the Town of Thompson Zoning Code for the following purposes; 1) one side yard setback from required 15' to proposed 2.5' 2) combined side yard setback from required 40' to proposed 9.1' 3) rear yard setback from required 40' to proposed 29' and 4) percent of lot coverage from required 20% to proposed 34%.

Satisfactory proof of mailing was provided to the Board.

Ms. Reina – I purchased the house in 1999 and the shed was already there. On August 2, 2017 there was a lightning strike and the corner of the house and the shed closet to my house, not by my neighbor got hit. There was not a lot of damage. Four days after the lighting strike my neighbor claimed that items in his house stopped working and he then asked that I pay his \$ 1,000 homeowner's deductible to cover his items. Paula Kay - Why are you here? Ms. Reina – I'm here because my neighbor complained to the building department about my shed. Paula Kay – Since there was a complaint to the building department you were asked to come and fill out an application for a variance for the shed? Ms. Reina – Correct. Paula Kay – What is your plan for the shed? Ms. Reina – It was already fixed. Jay Mendels – Was anything changed to the house of shed? Ms. Reina – No, nothing has been changed I just had the house and shed fixed.

PUBLIC COMMENT:

Dean Roberts, neighbor – I was home when the lighting struck. I saw smoke and I saw Ms. Reina sitting in the car and I ran to her. She said her house was on fire. I called the Fire Department. I ran home and grabbed two fire extinguishers. The Fire Chief and one other fireman showed up. I gave them the fire extinguishers to use. She did not come to me and tell me that her house was on fire. I did not complain to the building department. I called the building department because the lighting strike came through the ground into my house and it blew a hole in my wall. The Fire Chief came into my house with a thermal camera to make sure there was nothing on fire. He said the building department will come to my house. No one came from the building department. I called my insurance company to report my blown appliances. I did not shake her down for money. She did give me replacement fire extinguishers but they were cheaper than the ones I had. Thankfully I was home, otherwise her house would have burnt down. When I applied for a building permit for my shed I did everything properly and the building department made me call Grays Woodworks and have them install Hurricane strips. I had to build to certain standards and so should she.

Paula Kay – Ms. Reina applied for a building permit for this shed and it was denied because it doesn't meet the zoning setbacks. This board is viewing the setbacks for this shed and that is why she is here. Chairman Richard McClernon – And this shed was built way before you moved in? Ms. Reina – Yes.

Allan Rich, 189 Lake Shore Drive East – I'm here to see if this is granted how will it effect the rest of us. Paula Kay – This is an existing shed on the back of the property. Allan Rich – I didn't understand the letter. So, these setbacks if approved will not change anything correct? Chairman Richard McClernon – Correct.

Dean Roberts – There is a home of woodchucks living under the shed and it's causing the shed to fall off the foundation. Richard Benson – That's a Building Department issue. Chairman Richard McClernon – The Building Department will take care of that.

Chairman Richard McClernon – There are no other issues? Jim Carnell - No

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
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; All voted no

Paula Kay – We do have a letter from Lake Louise Home Owner Association saying that they do not have an issue with the existing shed and it's in compliance with the LLMD restrictions.

A motion to approve all four variances was made by Robert Hoose and seconded by Jay Mendels
4 in favor; 0 opposed

Appeal by Pamela Schrader & Roy Burger:

Property is located at 118 Cooper Corner Road, Monticello, NY; S/B/L: 11.-1-4 in the RR-1 zone without central water/sewer.

Alan Fishman, representing
James Snowden, tenant

Applicants are requesting area variances from §250-8, §250-33A, §250-21B(4), §250-16B and §250-16 of the Town of Thompson Zoning Code for the following purposes: 1) pool setback §250-33A from required 25' to proposed 10' 2) one side yard setback from required 20' to proposed 8.1' 3) combined side yard from required 50' to proposed 28.9' 4) shed setback from property line §250-16 from required 10' to proposed 4.1' 5) shed setback from property line §250-16 from required 10' to proposed 4.6' 6) increasing a non-conforming §250-21B(4) and 7) accessory structure closer to the road than the main building §250-16B.

Satisfactory proof of mailing was provided to the Board.

We have an owner proxy for Alan Fishman and James Snowden.

Mr. Fishman - The house was purchased in 1986 and the two shed in the back yard were already there. The swimming pool was there and last year the pool was destroyed and they replaced it. They weren't sure if they needed a permit. Robert Hoose – They didn't get a permit for the new pool! Alan – The shed in the front yard is where he put's his wood for the woodstove. He had to put it in the front yard, if he put it on the side it would have block the entrance to the back. We need the approval for the addition because they want to put an outdoor wood boiler behind the house and then continue the driveway out to the back yard and unload the wood by the wood boiler. The house is parallel to the street. It will not work well if the addition was offset to the house. They need more space in the house because it's themselves plus 3 kids, the place is too small. The proposal is for a 20 X 30-foot addition in the rear of the house. We will be doing a full set of plans' and it will be two stories. The attic space now will be tied in and used for storage space. The proposal is to have the bedrooms downstairs and upstairs would be a bedroom suite. Chairman Richard McClernon – What about the existing space now? Mr. Fishman – The attic will be used for storage space. Chairman Richard McClernon – Is there anyone living on the second floor now? Mr. Fishman – They are using it as a bedroom now. Chairman Richard McClernon – And then they will use it for storage? Mr. Fishman – Yes.

Chairman Richard McClernon- How far is the septic tank from the house? Mr. Fishman – I know it has to be 10 feet and we will be doing that when we do the addition. I'm told the current tank is 750 gallon and he needs to put in a new tank and that will be the 10 foot separation from the house. Paula Kay - Do you have a proposed location for the septic? Mr. Fishman – Somewhere close to where it is now but 10 feet away. Paula Kay – The issue is that right now what you're showing doesn't show the new septic location.

Chairman Richard McClernon – We need to see where it's going to be. Mr. Fishman – I believe that's a building department issue. The permit will not be issued until we have a design for the septic system. I believe the Board is here not to approve a septic system but to approve the distance of 8.1 feet.

Robert Hoose – What we are currently looking at does not have an approved septic tank. You want us to approve it but we can't. Mr. Fishman - With the condition that upon construction of the addition, the Building Department will get an engineered plan, but we can't do that until we get the approval for the variances. There will be an approved septic stamped by an engineer. I don't think the addition should be hinged on the placement of the septic system. Robert Hoose – There has to be 100 feet between your well and the septic tank. Mr. Fishman – No, from the well house to the field needs 100 feet. The septic tank is just 50 feet. We are looking at the redesign of the septic field. But the location will be in that area. Richard Benson – We are looking at passing variance for the sheds and it's clear that you're going to end up moving the septic system and we are going to have variances for the sheds and you're not going to need them because your going to have to move the sheds since they will be in the way. Mr. Fishman – If we had to move the sheds he will have to come back. If he puts them behind the pool that will keep him from having to get another variance. I don't know how the engineer will design the septic system.

Chairman Richard McClernon – What is the stream on the plans. Looks like it goes through the house. Richard Benson – No it doesn't. Mr. Fishman – It's just a run off brook.

Paula Kay – Because your applying for an addition permit, all of your existing violation have come up. The board is trying to clear up what is existing before getting to what is proposed.

Richard Benson – We would like to see a complete plan to what it's going to look like before we can pass any variances. And what about the deck? Chairman Richard McClernon – There is a permit that needs to be closed out first for the existing deck.

Mr. Snowden - When I first applied for all my permits two years ago Eric Horton was aware of all the violation. He said when I go for the final inspection we would take care of everything. We will take care of the electrical inspection since we need to open up the house and re-due the electricity. I was told to come to the meeting, get the variance and get the building permit. Robert Hoose – Usually those things are cleaned up before you come. Paula Kay – You said two years ago where have you been?

Mr. Snowden – I have a growing family and this takes money and time. Paula Kay - It's not that town held you up. It sounds like the town has been pretty kind to you to give you all this time knowing that the violations existed. Mr. Snowden – Nothing was said to me. Eric Horton came and measured the deck and that should have been closed out. Paula Kay – But they can't be because they are setback issues. Mr. Fishman – So we are here tonight to settle some of the setback issues, the two sheds' and the pool. Can we make it a condition that the new permit for the addition can't be issued until he get's permits for the pool and whatever else is necessary? Mr. Snowden – The pool was there since 1986. I just had a tree fall on it. Paula Kay – The replaced pool did need a permit and the pool has an attached deck. Mr. Fishman – I'm suggestion to make a condition that he can't get a permit until everything gets cleaned up. I don't want Mr. Snowden to have to spend money.

Paula Kay– Not just a permit, but a Certificates of Occupancy as well. The Board is looking for additional information about the outstanding permits.

Chairman Richard McClernon – Plus the 8.1 feet is over 50% of the setback. Is there anyway to angel the addition to 13.9 feet? Mr. Snowden - I can center the addition to the property.

Mr. Fishman – The setback would be more than the 8.1 feet. Chairman Richard McClernon – As long as he keeps it grader than the 13.9 feet from the line. Mr. Fishman – If we keep it at 13.9 feet. You're not asking to keep it at 20.8 feet because then he would have no addition. Mr. Snowden – I don't understand all these setbacks your requesting since I don't already meet the setbacks that are there now. Mr. Fishman – It's a preexisting condition already. Jay Mendels – We are just trying to not make it any worst. Have you gotten any complaints from the neighbor's? Robert Hoose – We got a letter from a neighbor. Do you want to read it?

Mr. Fishman read's the letter from neighbor Ms. Cohen.

Robert Hoose – Ms. Cohen is not looking to stop anything, just to have a few things in there so it's not too overwhelming.

Jay Mendels– For the open permit did you get a variance for the deck? Mr. Snowden – The deck was already there. Everything was already there. Paula Kay – You don't own the house so we don't know if these items where there before the house was bought.

Jim Carnell – The permit was from the homeowner. Chairman Richard McClernon – So it was the home owner. The deck is recent then? Richard Benson – Is the deck setback in the notice? Chairman Richard McClernon – No.

Jim Carnell – The original permit was denied by John Drobysh based off the original requites and they came back with a modified plan and there was some notation about restricting the size of the deck to apply with the setback. It was all hand drawn specks at the time. The permit was then issued but no inspection was done afterwards.

Mr. Fishman – So we can't just close it because the permit was issued and there was no variance.

Paula Kay – The property owner didn't build within accordance of the permit. Mr. Fishman – I thought it sounded like it was a restriction on the size and then they complied with the restriction.

Jim Carnell – At some point there was a discussion to reduce the size and there was no inspection or final on the deck from 2000. Chairman Richard McClernon – Plus it needs an electrical inspection as well on the deck. Mr. Fishman – Is that for the deck? Mr. Snowden – They put a 20 x 8-foot addition on the front. When Eric Horton came and measured it he should have closed this permit out.

Paula Kay – He can't because it needs an electrical final. Mr. Fishman – Even if we close out all these permits your still concerned about this deck that got a permit but no variance because of the setback?

Jay Mendels – We don't know if that deck got a permit, your saying it's for the porch.

Paula Kay – The board is looking for the actual dimension of the deck and the setbacks.

Mr. Snowden – If they are talking about the side deck it's about 8 x 8 feet off the property line.

Mr. Fishman – We need to close the front porch for the electoral inspection, and building permits for the pool and sheds. Mr. Snowden – These sheds were pre-fab sheds from Grays Woodworks. Paula Kay – Are they on foundations? Mr. Snowden – No.

Mr. Fishman – We have to close up some permits. Sounds like you're not allowing the 8.1 feet setback.
Chairman Richard McClernon – That's my personal opinion.

Richard Benson – Your saying you're going to offset it by how much and what are we going to gain?

Mr. Fishman – I have to come back with a revised survey. Jay Mendels – I think it's a fair compromise.
Offset it by 13.9 feet. Mr. Fishman - What if we do 13 feet on each side? I will come back with the new survey that will show the new dimensions. Chairman Richard McClernon – 13 feet on both sides and offset from the center of the house. Jay Mendels– Would you be ok with that? Mr. Snowden – I will just adjust the existing old house to the new one.

Jay Mendels – Will that be ok with the driveway? Mr. Snowden – That will make it pretty hard with my trucks delivering the firewood. Jay Mendels – With the current layout I don't really have a problem with that, it's a narrow piece of property. Richard Benson – It makes since.

Jay Mendels – Other things can't be built without a permit. Richard Benson – We are saying to keep the distance on the side where the 30.6 feet is. Jay Mendels – Keep it as proposed. That is my opinion.
Chairman Richard McClernon – What would the distance be off the addition to drive a truck through there? Mr. Fishman – How much room would you need? Mr. Snowden – I would need at least 12 feet.
Mr. Fishman – It's showing 13.9 feet now so let's round it off to 13 feet. Mr. Snowden – I like the proposed way so I can have the access for my wood boiler. Mr. Fishman – They are not going to give you the 8.1 feet. So, we can bring it back to 13.9 feet to keep it parallel. What can we get on the other side?
Mr. Snowden – I'll take what every they give me. Mr. Fishman – From the center of the house it will give him about 8, 9 may 10 feet and that's not enough for the driveway. Mr. Fishman – Can we increase the 8.1 feet to 10 feet so he has access to the back yard?

Paula Kay – What I suggest is to go back and redesign with more than 8.1 feet. Chairman Richard McClernon – 50% of the board is ok with the 8.1 feet. Richard Benson – I would rather see it stay at 8.1 feet then to split it. Jay Mendels – I'm ok with the 8.1 feet as long as everything gets' cleared up. Robert Hoose – I'm ok with the 8.1 feet as long as everything gets cleaned up.

Mr. Fishman - Can we get this left open to March? Paula Kay – No, you would have to re-notified.
Mr. Snowden – I will take care of everything by the end of January.

Paula Kay – We will leave this open until January. Mr. Fishman – If I can't make it by January then I will have to re-notified again.

A motion to leave open this Public Hearing open until January 9, 2018 was made by Richard Benson and seconded by Jay Mendels.

4 in favor; 0 opposed

A motion to close the meeting at 7:50 pm was made by Jay Mendels and seconded by Richard Benson
4 In favor; 0 opposed

Respectfully submitted,

Debbie Mitchell

Debbie Mitchell
Secretary
Town of Thompson Zoning Board of Appeals