

**APPROVED**

TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
Tuesday, April 10, 2018

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



Absent: Danielle Jose-Decker and Robert Hoose

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

A motion to approve the March 18, 2018 minutes was made by Jay Mendels and seconded by Richard Benson  
3 in favor, 0 opposed

**Appeal by: Continental Cottages Unit 4K**

Property is located at 381 Fraser Road, Monticello, NY: S/B/L: 10.-4-2 in the SR zone with central water/sewer  
Joel Kohn, representing Applicant

Applicant is requesting area variances from §250-7 and §250-21D (2) of the Town of Thompson Zoning Code for the following purpose: 1) lot coverage from required 10% to proposed 21.09%.

Satisfactory proof of mailing was provided to the Board.

Mr. Kohn – We were here in February for 2 variances for the same unit. Originally, we came in for an expansion of 200 square feet and now the expansion is only 196 square feet. There is an existing 21% lot coverage and with this addition almost 200 square feet the coverage will be 21.09%. This is a very slight increase in the lot coverage.

Paula Kay – Before this addition it was what? Mr. Kohn - 21% and the permitted lot coverage is 10%, but it is already 21% and we are increasing it by .09%. Jay Mendels – The 200 square feet that you are adding on is for the building? It doesn't include the deck does it? Jim Carnell – Its incorporated in the percent of lot coverage. Jay Mendels – But we are talking about another 200 square feet!  
Chairman Richard McClernon – They didn't come back for the 200 square feet for the building?  
Paula Kay – They are allowed to do that. Chairman Richard McClernon – But it's 280 not 200! Paula Kay – The floor area of existing bungalows and other existing structures may allow to increase by no more than 15 % or 200 square feet, what ever is great. Based on the floor area on the original site plan.  
Jay Mendels – We are a little over? Mr. Kohn - No, we are less than 200 square feet. The structure includes the deck. Paula Kay – The word structure includes the deck. Chairman Richard McClernon – For just lot coverage? Paula Kay – Not for just lot coverage. Jay Mendels – So that will include the deck?

Paula Kay – The only issue is the bump out of the deck is now 21.09%. Mr. Kohn - We still have to go to the Planning Board.

Chairman Richard McClernon – Any violation? Jim Carnell – The only thing that’s due is a fire inspection.

**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; 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 for negative declaration motion under SEQRA was made by Richard Benson and seconded by Jay Mendels

4 in favor; 0 opposed

A motion to approve the application was made by Jay Mendels and seconded by Ryan Schock

4 in favor; 0 opposed

**Appeal by: Alex Weinberger**

Property is located at 149 Lake Shore Drive, Monticello, NY: S/B/L: 42.-12-2 in the RR-2 Zone.

Tim Gottlieb, Engineer; Joseph Gottlieb, P.E. P.C

Alex Weinberger, owner

Applicant is requesting area variance from §250-9 and §250-16 of the Town of Thompson Zoning Code for the following purpose: Accessory structure without a principal structure (32'-0" x 40'-0" garage). Per §250-2(B) accessory is a term applied to a building or use clearly incidental or subordinate to and customarily in connection with the principal building or use on the same lot.

Satisfactory proof of mailing was provided to the Board.

Mr. Gottlieb – This proposal is for a garage on a vacant property and it will be used for storage of boats and jet ski's in the winter. There are two other parcels on Lake Shore Drive that both have just garages on them.

Chairman Richard McClernon – There is a deed restriction that does not allow just a garage.

Paula Kay – In the deed from Arthur and Maureen Glick it states that no building shall be placed on this property except for a dwelling house with a garage. The way I read this and the Board reads this is that you cannot put a garage on the property without a main dwelling first. You mention about other property and I don't know if these deed restrictions are throughout the area, but it is clear that it does reflect this parcel. Mr. Gottlieb – The Goodman parcel did get a variance from the Zoning Board.

Chairman Richard McClernon – We can't go against the deed restriction. Where is your house located?  
Mr. Gottlieb – He lives on 149 Lake Shore Drive not too far from the parcel in mention.

Mr. Weinberger shows Chairman Richard McClernon a sketch of what the garage will look like.

#### PUBLIC COMMENT:

Alvin Bunis – I have the property adjacent to this lot. I also have 3 other letters from other people who couldn't make it. The deed is what it is and I have a two-car garage that is 20 x 20 by 10 feet tall. Not 1,000 square feet by 20 feet tall. His proposed garage is bigger than my house. He wants to build a commercial garage. Mr. Bunis gave Chairman Richard McClernon the other letters from the public.

Nancy Lustenberger- I own the property adjacent to Mr. Weinberger. Besides the massive size of the garage it is turned so that it will be facing my back yard. We just bought this place in August. This is a residential area and not zoned for boats to go in and out of the garage. This is on a raised piece of property, so not only is it exceeding the high restriction of 16 feet, it will make it 24 feet high. It will be towering over the adjacent buildings. Also, he knew when he bought the property that he could not build the garage.

Scott Baken – I just bought a house a few houses down in August. It's been my dream to live on a lake. We never thought that someone would like to put in a very large garage on the lake. It will distract from the look and feel of the area. If you want to store your boat and jet ski's there are other places in the area you can do so. Mr. Weinberger knew that there was a restriction when he bought this parcel.

Warren Kossin – It's my understanding that the ZBA does not have the rights to change a deed restriction. It can possibly be changed in court but not at a ZBA meeting.

Eric Fellenzer – In relation to the other house's how far back from the street is this property? Mr. Gottlieb – Twenty-five feet, about 40 feet from the road. About the same as most of the houses on Lake Shore Drive. None of the lots meet present day zoning requirements. Chairman Richard McClernon – Most Lake Shore drive property when purchased do not meet the current zoning. Mr. Fellenzer – I'm not totally opposed to the garage, but my personal option is that if approved, the structure should be designed to fit into the area. I think the proposed garage storage should be used for person vehicle, not boats and should not be for repairs or any other commercial activities. The size is too large for the property and should be limited to the size of somewhere around 800 feet high. It should be painted with earth tone colors. If approved these constraints should be approved by the Planning Board. I don't understand why the location is located at 149 Lake Shore Drive? Mr. Gottlieb – The address is Mr.



Weinberger's house not the parcel. The Section Block Lot is correct. Chairman Richard McClernon – Do we need to do anything about the address being wrong? Paula Kay – I don't think it's going to matter.

Nancy Lustenberger - Why did we not get a notice for this public hearing since I live next door? We got a tax bill and school bill this year and I confirmed with the Building Department that everything would be sent to us. The prior owners got the public notice. Jim Carnell– We pull the list from the tax rolls, so I'm not sure why it did not go to you.

Mr. Weinberger shows the ZBA a picture of his boat and that is why he wants to build the garage.

Chairman Richard McClernon read the letters from the public that could not show up today and they are: Arthur and Maureen Glick, Mark Fellenzer, Judith Selsky and Felice Sponglin, Charlie Russo, Kirsten Froden, and Pat & George Cullen

Paula Kay – The Board will need to have a discussion on this application or Mr. Weinberger can withdraw. It's pretty clear with the deed restriction that the Board will not be able to approve this.

Mr. Weinberger – I will withdraw the application and will build a house. Mr. Gottlieb – We will be back with variances for the house.

PUBLIC COMMENT CLOSE:

**Appeal by: Thompson Ridge**

Property is located at Rock Ridge Drive, Monticello, NY: S/B/L: 13.-3-10.1 in the SR zone with central Sewer.

Barbara Garigliano, Garigliano Law Office  
Glen Smith, Engineer

Satisfactory proof of mailing was provided to the Board.

Applicant is requesting area variances from §250-7 of the Town of Thompson Zoning Code for the following purpose: 1) Habitable floor area for 168 units required 1,000 sq. ft. to proposed 735 sq. ft. and 2) Habitable floor are for 52 units required 1,000 sq. ft. to proposed 814 sq. ft.

The previous map had the variance for the length of the building as 204 and should be 220 which is printed on the official site map. Ms. Garigliano gave us a new site map.

Ms. Garigliano – There are 416 units, 196 of those units are 2-bedroom units that are in excess of the minimum requirement of 1,000 square feet. The 168 units are 1-bedroom apartments and the 52 units are considered a large 1-bedroom apartment and they are less than the Towns minimum 1,000 square feet requirement.

Paula Kay – During the work session we discussed the reason why the Town had imposed the 1,000 square feet. It had nothing to do with apartment style living but to do with mobile homes. Chairman Richard McClernon and Jim Carnell looked at sizable units through out the town and village including Golden Ridge and some are even smaller then what your client is proposing. Chairman Richard McClernon – All that I check were 1-bedroom units that were 750 square feet, and 2 bedrooms were 850 to 900 square feet. They were all under 1,000 square feet.

Ms. Garigliano – That is always a question, why they are so small? And I said they are an apartment, we just live in the country where everything is big.

Chairman Richard McClernon has letter about the 239 and that is now not needed. Paula Kay – It's a local determination.

**PUBLIC COMMENT:**

Warren Kossin – This property buds the rear portion of my property on Concord Road. Mr. Kossin looks at the map and would like to know what kind of screening is being used. Mr. Smith – It will be wooded. Mr. Kossin – I'm assuming your application is not to increase the number of units. My main concern is that people will live here for only 1 year at a time. It will become a transient community. It would be nice if the people moving in there would have families. By having a transient community behind me I won't want to re-build. I think the small apartments are going to be more detrimental to my property. Chairman Richard McClernon – There will be larger apartments. Ms. Garigliano- There will be 2-bedroom apartments. Ms. Garigliano – The 2-bedroom units are ok we are here for the 1-bedroom variance. Kossin – I don't think there will be any stability of what can be built around here if we can just change the code to make the apartments smaller. Chairman Richard McClernon – We cut down the size of the units and we looked into the type of units this application is building and its gong to be high end. I don't think we will have transients that will go in there to live. Mr. Kossin – Families are not going to be able to grow there.

Vincent Dollard – I have a small piece of property on the other side. I just got a notice on this for the first time. I went back and looked at the previous minutes and notice they changed their name several times. Did they change developers? Paula Kay – No. Ms. Garigliano – It was Thompson Lakes. Mr. Dollard – Then it was Heatherwood? Ms. Garigliano – No, that is the developer. Mr. Dollard – Is this in keeping with the whole things from 2 units per acre to 8 units per acre and then with the zoning would there be apartments in this zoning? Chairman Richard McClernon – Yes. Mr. Dollard – Then it was luxury apartment to smaller apartments. Paula Kay – Everything has been the same. This was approved several years back and nothing was done. The size has always been small. They didn't know how many units and sizes they were going to be in the beginning. And the Board can't really review a development until they know the size and how many units there are going to be. The Developer has been here several times. We learned that he doesn't sell the units, he manages them. Mr. Dollard – You have answered my question. It sounds like you have a grasp on who the developer is and how it's going to be used.

**PUBLIC COMMENT CLOSE:**

AREA VARIANCE CRITERIA:

- (1) Whether benefit can be achieved by other means feasible to applicant; Jay Mendels – They could just make them bigger so I say Yes. Chairman Richard McClernon, Richard Benson and Ryan Schock all say No.
- (2) Undesirable change in neighborhood character or to nearby properties; All voted No
- (3) Whether request is substantial; All voted No – Richard Benson – It’s based on the apartment building size.
- (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 for negative declaration motion under SEQRA was made by Richard Benson and seconded by Jay Mendels  
4 in favor; 0 opposed

Motion to have both variance approved that were requested was made by Jay Mendels and seconded by Ryan Schock  
4 in favor, 0 opposed

**Appel by: Pelham Parkway Bungalow**

Property is located at 350 Fraser Road, Monticello, NY S/B/L: 10.-8-6 in the SR zone with water/sewer  
Jay Zeiger, ESQ – Kalter, Kaplan, Zeiger & Forman  
Allen Frishman, consultant

Applicant is requesting area variances from §250-21B (4) of the Town of Thompson Zoning Code for the following purpose: Density per acre with Water/Sewer 2.0 4.0  
Summer Camp/Bungalow Colony:

- One side Yard 50 feet 10 feet
- Front Yard 100 feet 45 feet
- Combined side yard 100 feet 83 feet
- Percentage of lot coverage 10% 14.19%

Increasing a nonconforming structure – §250-21B (4) N/A

Bungalow separation

Increase floor area (§250-34(E) 2,181 sq. ft 2,400 sq. ft

Continuation from the March 28, 2018 meeting.

Chairman Richard McClernon - The building in the back is going to be what? Mr. Frishman – Building number five will be a community building. Chairman Richard McClernon- Are units three and four new? Mr. Frishman – Yes, we did them last spring.



Mr. Zeiger – We were her last month, the proposal is to tear down the two building and re-build a new one family home. We were looking to build 2,400 square feet building and after a long discussion the Board would be comfortable with a building of 2,000 feet or less. The proposal is now for 1,995 square feet. By making it a smaller building and moving thing around we eliminated some variances. Not sure if we need a variance now for the size of the building. Because if you take the total of the two-existing building and multiple that by 15% we are over the 1,995 square feet. If we are combining them can we do that in a calculation? On the side yard 15 feet is what is required. What exists now is 9 feet and the proposal is now 10 feet. Rear yard is a 40-foot requirement and this building is nowhere near that 40 feet. We are not touching the existing building, that is 27 feet. I don't know if we need a variance for the back. Chairman Richard McClernon - It needs to be 25 feet between the buildings. Mr. Frishman – We gained a couple feet, it is now 33 feet. Chairman Richard McClernon – This new deck should not be there? Mr. Frishman – We don't show the deck because it's within the footprint. It's now 70 by 28.6 feet. The last time we were here it was 80 by 30, we reduced the interior. Mr. Zeiger – The length is now 70 by 20. Mr. Frishman – Last month there was some confusion between the 10 feet and the 9 feet. The 9 foot is where the building stands now.

Mr. Zeiger – Rear yard, I don't think we need variance since we are not touching the building. The lot coverage allowed is 10%, it's currently at 12.77%. With the new building it will be 13.27%. The number of dwellings is 1.9 dwellings that will be allowed. Its currently four and after this proposal we will be at three. But three is more than the 1.9 allowed, so we will need a variance for this.

Chairman Richard McClernon - We are going to need a new drawing with the deck. Jim Carnell –When you do the approval make sure to include the dimensions and the overall square footage so that what is approved is the same thing that gets submitted to us.

Richard Benson does the calculation and come up with 1,995.

Jay Mendels – We need to make some kind of contingency that shows that the new open deck gets struck from the plans. Also last month we asked for a contingency saying that you can't come back and ask to put up another building in this area. Mr. Zeiger – They agreed with that. We can't build without another variance anyway. Paula Kay – But you won't be asking for a variance? Mr. Zeiger – Correct.

**PUBLIC COMMENT:**

No public comment

**PUBLIC COMMENT CLOSE:**

A motion for negative declaration motion under SEQRA was made by Jay Mendels and seconded by Ryan Schock

4 in favor; 0 opposed

**AREA VARIANCE CRITERIA:**

(1) Whether benefit can be achieved by other means feasible to applicant; Chairman Richard McClernon- They can make it smaller. All voted Yes.

(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. Zeiger – The Variances are:

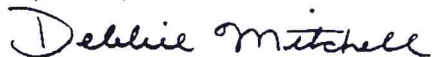
- To replace the two-existing building that are being removed with one new, 1,995 square foot building that includes a deck. That is within 28 feet 6 inches.
- Side yard variance from 15 feet to 10 feet.
- Rear yard is 40 with an existing building that is 27 and our building is way more than 40 so we will not a variance now.
- Lot coverage from 10 % to 13.27 %.
- Density per acre from 1.9 dwelling to three.
- The condition of the variance is: 1, No additional dwelling allowed and 2, the new deck language is to be deleted.

Richard Benson – The entire project needs to take place with in the 28 feet 6 inches. Mr. Zeiger – Correct.

Motion to except the above stated variance was made by Ryan Schock and seconded by Jay Mendels  
4 in favor; 0 opposed

A motion to close the meeting at 8:05 pm was made by Ryan Schock and seconded by Richard Benson  
4 In favor; 0 opposed

Respectfully submitted,



Debbie Mitchell

Secretary

Town of Thompson Zoning Board of Appeals