

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, February 9, 2021



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

Chairman McClernon called the meeting to order at 7:00 p.m. via zoom.

A motion to approve the January 12, 2021 minutes was made by Richard Benson and seconded by Jay Mendels
5 in favor, 0 opposed

APPLICANT PRAFUL DESAI, LLC

Applicant is requesting an Area Variance from §250-10 & §250-21A (2) of the Town of Thompson Zoning Code for the following purpose (1) Retail & service rear yard setback from required 50’ to proposed 48’ (2) Increasing a nonconforming used N/A.

Property is located at 824 Route 17B, Monticello, NY S/B/L: 17.-1-48.2 in the E zone no central water/sewer zone.
Praful Desai, owner
Tim Gottlieb, Engineer

A Satisfactory proof of mailing was provided to the Board.

Mr. Gottlieb – They want to install a cooler in the rear of the building to allow them to have a walk-in cooler from inside. This property has been in the extractive zone for a very long time, so it’s an existing non-conforming use. Chairman Richard McClernon – We would like to have the applicant petition the Board to get the zone changed to HC and make that a condition for the approval and this will need to be done within 3 months and then in 6 months get the whole thing done. This way he will not have to go through this issue in the future.

PUBLIC COMMENT:

No public comment

PUBLIC COMMENT CLOSE:

A motion to close the public hearing was made by Jay Mendels and seconded by Richard Benson
5 in favor; 0 opposed

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 to approve the application with the contingents that they petition the Town Board to change the Zoning to HC and have it completed within 6 months was made by Jay Mendels and seconded by Richard Benson
5 in favor; 0 opposed

APPLICANT VILDANA RADONCIC

Applicant is requesting an Area Variance from §250-9 of the Town of Thompson Zoning Code for the following purpose (1) Animal housing from required 150' to proposed 80' (2) Animal housing from required 150' to proposed 50' (3) Keeping of livestock from required 25 acres to proposed 5 acres (4) Keeping of fowl from required 25 to proposed 50.

Property is located at 266 Gregory Rd, Monticello, NY S/B/L :56.-1-52.10 in the RR2 zone.
Vildana Radoncic, applicant

Continuation from last month.

Paula Kay – The only agenda item the board can vote on tonight is for the variance. Chairman Richard McClernon read's Ms. Radoncic's correspondence she sent to the Planning Board. Ms. Radoncic is looking to change her variance to the following:
#1 – Change proposed 80' to 100' #2 Change proposed 50' to 70. #3 In my option goats are considered Farm Animals not livestock. #4 keep the fowl at 25 (don't need anymore)

Jay Mendels – Does the applicant know that we are not going to talk about the livestock to farm animal change tonight? Ms. Radoncic – Yes.

Paula Kay – The board has had multiple appearances with this application. The board needs to discuss the variances for the housing and its location and the keeping of livestock.

Chairman Richard McClernon – You won't have any fowl? Ms. Radoncic – I only will have 25 which is allowed.

Jay Mendels – If she changed some of the property lines then she would not have to be here. Ms. Radoncic – I do understand that and maybe I'll do it in the future but not known. Chairman Richard

McClernon – If you split the 5 acres to 2 and 3 acres then you can add the 3 acres to your existing 5 which will give you 8 then you won't need the variances. Plus, you will still have 2 for future building. Ms. Radoncic – Yes that is clear to me. When I first applied, I just want to try and keep the building farther away from my neighbor Mr. Ng without having to go through all of that.

Jay Mendels – So you reduced the sizing of the house? Ms. Radoncic – I'm giving you the exact numbers now. There was confusion with the Building Department and what I needed. The 100 feet will be from the other neighbor's house on my left-hand side looking from the road. And the 70 feet will be from my own property. And I'm 2 ½ acres off the street by the pond.

Chairman Richard McClernon reads a letter from Chris Ng that was submitted to the Planning Board. Chairman Richard McClernon – Paula Kay responded to Mr. Ng in a timely manor.

PUBLIC COMMENT:

Mr. Ng – I subsequently requested a foil request for the interpretation of farm animals. And Marilee Calahoun said that there had never been a time when the Zoning Board of Appeals (ZBA) made a determination on Goats as being Farming Animals. My purpose was to help the ZBA with the keeping of goats. I did not receive any response in the time frame that I asked for and Mr. Carnell never wanted to talk to me. The Radoncic have been my neighbor for three years now and I have done my part to be a good neighbor and they have not. I don't want to have to come here every month to make sure my opinion matters. I don't think you as the Board should have continued this application. I feel that the ZBA has failed to take any action on these violations. Paula Kay – I have to stop you, one of the actions taken by the Building Department is why we are sitting here tonight. Because they were noticed of this issue it was a violation. And in order for the Applicant to get clarity they had to be sent to the ZBA. If the ZBA grants Ms. Radoncic her application, then she will no longer be in violation. If they deny the application, then she will be in violation. And the Town will then take those steps needed. Mr. Ng – In reviewing the December 8, 2020 meeting minutes, Ms. Radoncic admits having all these animals. There are violation going on and they are with agriculture. Ms. Radoncic also stated that she wanted to try and make this an agriculture area. Which is in the December 8, 2020 minutes. Which is a violation. You want to put up a chicken coop that is fine. You cannot approve housing for animals that are not allowed there. Chairman Richard McClernon – We asked her to go back to the Building Department and ask for a determination on farm animals. This has been done before, not with farm animals but other stuff. And talking to Logan farm animals was written this way so people could have chicken, goats, and things like that on 5 acres. She didn't come back before the board for the interpretation so we can't rule on that tonight. Mr. Ng – I did hear that, and that interpretation would be a separate application and you made that suggestion on December 8, 2020 as well. This is three months now and I want closure.

Chairman Richard McClernon – If she changed the requested setback from 150' to 100' and 150' to 70'. Does that change your mind Mr. Ng? Mr. Ng – I am against the housing for any illegal livestock. You need to deny the housing since this is for animals that don't belong there. And hopefully the Building Department will do something about it.

PUBLIC COMMENT CLOSE:

A motion to close the public hearing was made by Barbara Strong and seconded by Sean Walker
5 in favor; 0 opposed

Chairman Richard McClernon – Do we want to vote on all the variance at once or individual? Paula Kay
– Do the housing then the livestock.

AREA VARIANCE CRITERIA FOR THE 2 ANIMAL HOUSING:

(1) Whether benefit can be achieved by other means feasible to applicant; Richard Benson Voted Yes -
because they have the adjacent property to make this work. Jay Mendels – Voted Yes, Barbara Strong –
Voted Yes, Sean Walker – Voted Yes and Chairman Richard McClernon – Yes - because they can combine
lots to make it work without a variance.

(2) Undesirable change in neighborhood character or to nearby properties; Richard Benson Voted Yes –
With the complaints from the adjacent neighbor. Jay Mendels Voted No - Because she has set it far
back on their property, so no one see it. Barbara Strong Voted Yes, Sean Walker Voted Yes, and
Chairman Richard McClernon Voted No - Since she put the fence up there has been no issue and the
Animal housing is the way back.

(3) Whether request is substantial; Richard Benson Voted No - They are allowed to have the chickens
but there is an issue if we approve with the neighbor. Sean Walker Voted Yes - It is causing in issue.
Barbara Strong Voted Yes – Because it's not very clear. Jay Mendels Voted No - I think the setback are
reasonable due to the size and shape of the property and our restrictions. And Chairman Richard
McClernon Voted No - Because the 100' is not that great of a request.

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

(5) Whether alleged difficulty is self-created; Richard Benson Vote Yes, Barbara Strong Voted Yes, Sean
Walker Voted Yes, Jay Mendels Voted No - She is allowed to have animal housing, but she cannot
adhere with the setback. Chairman Richard McClernon Voted No - It is a 5-acre piece but it's long and
narrow and the shape of it doesn't allow for her animal housing according to our code.

A motion to approve the 2 housing variances was made by Jay Mendels and seconded by Chairman
Richard McClernon

2 in favor; 3 opposed

Richard Benson – No

Sean Walker – No

Barbara Strong – No

Jay Mendels – Yes

Chairman Richard McClernon – Yes

It a three to two vote and didn't pass.

AREA VARIANCE CRITERIA FOR KEEPING OF LIVESTOCK:

(1) Whether benefit can be achieved by other means feasible to applicant; Barbara Strong Voted Yes, Richard Benson Voted Yes, Sean Walker Voted Yes, Jay Mendels Voted No – If she wants livestock then she needs a variance. Chairman Richard McClernon Voted No – Because the 5 acres for livestock is not feasible.

(2) Undesirable change in neighborhood character or to nearby properties; Richard Benson Voted Yes – Adjacent properties are having an issue with Livestock. Sean Walker Voted Yes – Same as Rich. Barbara Strong Voted Yes, Jay Mendels Voted Yes and Chairman Richard McClernon Voted Yes

(3) Whether request is substantial; Jay Mendels Voted Yes – Based on our restriction of 25 acres to 5 acres. Richard Benson Voted Yes – 25 acres to 5 acres is substantial. Barbara Strong Voted Yes, Sean Walker Voted Yes, Chairman Richard McClernon Voted Yes.

(4) Whether request will have adverse physical or environmental effects; Jay Mendels Voted Yes – There is potential because we because haven't determined what livestock can be and if they were depending on that livestock it could have an adverse physical effect, Richard Benson Voted Yes – Same reason as Jay. Sean Walker Voted Yes – We just don't know. Barbara Strong Voted Yes, Chairman Richard McClernon Voted Yes – Under livestock It doesn't give the limitation of animals on 5 acres.

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

A motion to the keeping of livestock variance was made by

Jay Mendels - I do want to have the applicant to come forward for a clarification on livestock versus farm animal. Rich Benson – I agree with Jay Mendels. I would like to see the applicant to get the determination. Chairman Richard McClernon – I agree by turning down the animal housing tonight she cannot farm animals unless she splits her land.

Ms. Radonic – I came to the Building Department with the understanding that I can have the animals and I need a variance for the housing. Because it is so narrow it needed variances for the Building. This is not the first building permit I have request. The building inspector has been here before. I try to always follow the rules. If I have to combine my property I will, and I will be closer. If I need an interpretation, I will do that. Living on my road I have seen others with animals like goats, chickens on less than my acers. I am not building a farm here, I'm just having a few goats. Chairman Richard McClernon – If you go to the Building Department, ask for an interpretation then you will come back here then combine the lots you can have your animals.

A motion to deny the livestock was made by Jay Mendels and seconded by Richard Benson
5 in favor; 0 opposed

APPLICANT ALFRED RASCH

Applicant is requesting an Area Variance from §250-9 & §250-21B (4) of the Town of Thompson Zoning Code for the following purpose (1) One side yard setback from required 20' to proposed 5' (2) Front yard setback (Lakeside) from required 50' to proposed 12' (3) Combined side yard required 50' to proposed 23' (4) Increasing a non-conforming structure – N/A

Property is located at 205 Starlight Road, Monticello S/B/L: 57.-2-7 in the RR2 zone
Bren Salamon, representative

A Satisfactory proof of mailing was provided to the Board.

Mr. Salamon – My grandmother bought this place back in 1968. I am working with my Uncle to renovate it and then I will finish buying it and own it. Currently there is a small building on a long lot. We just want to enlarge the existing footprint. I submitted a site plan based on the survey showing my exiting footprint and all the utilities. Going for a modest enlargement keeping it as tight to the current footprint. I have support from my neighbors. I'm told that it will fit in well with the area.

Paula Kay – Where is your septic? Mr. Salamon – It is across the road up on the side hill. Jim Carnell – I see on the survey where it shows the tank location. Where on the application does it say how many bedrooms there are and what is proposed? Mr. Salamon – The bedroom will stay the same. Chairman Richard McClernon -Where is the pumping system to get the sewer up the hill? Mr. Salamon – Currently it's under the house. We will be improving the septic system. It is not housed so we plan on putting it in an appropriate enclosure. We did replace the line that helps pump it up the hill. This line will be buried so it can be a year-round house.

Jay Mendels – Is the existing shed staying? Mr. Salamon –No, removing it. Jay Mendels – Going from a T shape house to a square house, with a wrapping around decks? Mr. Salamon – Correct.

PUBLIC COMMENT:

No Public Comment

PUBLIC COMMENT CLOSE:

A motion to close the public hearing was made by Richard Benson and seconded by Sean Walker
5 in favor; 0 opposed

AREA VARIANCE CRITERIA:

(1) Whether benefit can be achieved by other means feasible to applicant; Jay Mendels Voted No – Just a small awkward piece of property. Barbara Strong Voted No, Rich Benson Voted No, Sean Walker Voted No and Chairman Richard McClernon Voted No

(2) Undesirable change in neighborhood character or to nearby properties; Jay Mendels Voted No – Will be an improvement. Barbara Strong Voted No – Will be an improvement. Rich Benson Voted No, Sean Walker Voted No and Chairman Richard McClernon Voted No

(3) Whether request is substantial; Jay Mendels Voted Yes - Based on our rule but we need separate rules for these lake areas. Richard Benson Voted No - Only because of our Lake community standards. Barbara Strong Voted No, Sean Walker Voted No, and Chairman Richard McClernon Vote Yes – The parcel is about an acre and this is down on the smallest piece of the property. It's a lake front property and I don't blame them for wanting the house there.

(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 all four requested variances was made by Barbara Strong and seconded by Sean Walker

5 in favor; 0 opposed

APPLICANT DONALD NICHOL

Applicant is requesting an Area Variance from §250-9 of the Town of Thompson Zoning Code for the following purpose (1) Garage height from required 16' to proposed 20'

Property is located at 403 South Shore Drive, Rock Hill, NY S/B/L: 66.-39-1 in the RR2 zone.

Donald Nichol, owner

A Satisfactory proof of mailing was provided to the Board.

Mr. Nichol – We want to build a garage that will have an upstairs and to have it as a working upstairs it needs to be 20' heigh. We believe we have picked an appropriate area for it. The garage will be the same distance as the house is from the road.

Jay Mendels – You have a garage now and you said it's just storage? Mr. Nichol – It has never had a car in it. Jay Mendels – Does it have a garage door, driveway up to? Mr. Nichol – Yes.

Chairman Richard McClernon – I personally don't see an issue with it. Jay Mendels – No issues with having two garages on one piece of property? Jim Carnell – Nope. Jay Mendels – The other garage is attached to the house. Mr. Nichole – I have an approval from Wolf Lake and has submitted it to Heather.

PUBLIC COMMENT:

No Public Comment

PUBLIC COMMENT CLOSE:

A motion to close the public hearing was made by Jay Mendels and seconded by Richard Benson
5 in favor; 0 opposed

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 to approve the height variance was made by Jay Mendels and seconded by Sean Walker
5 in favor; 0 opposed

Applicant: BASHKIM TAKU

Applicant is requesting an Area Variance from §250-16B of the Town of Thompson Zoning Code for the following purpose: Accessory structure closer to the road than the primary structure.

This property is located at 3 The Curve, Rock Hill, NY S/B/L: 55.-3-15 in the SR zone W/S
Oltjon Taku, Owner

A Satisfactory proof of mailing was provided to the Board.

Mr. Taku – I'm looking for a variance to place the shed closer to the road. This is a corner lot. We originally put it in the back and the neighbor wasn't happy since it was too close to his property line. And there is no where we can put it where it's 10' off the property line and 10' from our house because there is a patio in the back so we moved it to where it is now. Jay Mendels – Did you talk to the Homeowner Association to see where they thought it should go? Mr. Taku – We had an Association Member there when we were moving it and they never said there was an issue with where we move it. It wasn't until after it was moved that we got a letter saying that it couldn't go there. Jay Mendels – Did they give you any guidance to where it should go? Mr. Taku – No. Chairman Richard McClernon – Would you be ok to put in some 5-foot Hight hedges? Mr. Taku – We would be ok with that. Chairman Richard McClernon – Otherwise you might have to put it in the back. Mr. Taku – We can't do that, because we would be too close to the neighbor and we would still need a variance. Chairman Richard McClernon – How big is the shed? Mr. Taku – Eight feet by 10 feet, the issue is the brick patio is keeping us from moving being 10 feet from the property line.

Jay Mendels – On the map there is already a shed in the picture what is it? Mr. Taku – That was the original shed that came with the house and we thought we could put the new shed there, but it was too big.

Jay Mendels – Did anyone give you a problem with the old shed? Mr. Taku – Nope. Barbara Strong – Can this new shed go back to where the old shed was? Mr. Taku – It would not be 10 feet off the property line and we would need two variances. Chairman Richard McClernon – Is the patio considered part of the house? Jim Carnell - General not if it's less than a foot of the grade.

Chairman Richard McClernon – Is it razed or on the ground? Mr. Taku – Ground level.

Chairman Richard McClernon – He can then put it next to or on the patio then. How about you put it next to the patio? Mr. Taku – I will only do it if someone can come out and measure it, so I don't have to move it again. Chairman Richard McClernon – You don't think you have 28 feet from the corner of your house and the property line? Mr. Taku – I don't believe so, because the patio is over 10 feet from the house.

Paula Kay – Do you have an existing survey from when you bought the property? Mr. Taku – No, I couldn't find any.

PUBLIC COMMENT:

Larry Johnston, 2 The Curve, Rock Hill - I don't have any objection to the shed, they did a great job with it, it matches the house. If you suggest putting it in the back it just too small of an area. If they put a few shrubs in, you won't even notice it.

Camille Johnson – I sent a letter from the Homeowners Association that we are against the shed for where it is now. It was in the corner in the back and it was sitting on the property line. We went back and forth with the rules. The first shed was only 4 x 6 and tucked in the corner. When you took it down you can't replace it with a larger shed. Buy putting it by the road would set a precedent for many other people who want to do the same thing. As a homeowner myself it's too close to the road, I can see it. The Homeowners Association feels that we should follow the rules and those rules are based on the Town Rules. And we ask that you deny the variance. Jay Mendels – What if they put additional shrubs around it, would that suffice the Homeowners Association? Ms. Johnson – No, it would not. We have several Homeowners who have complained to me about this. I know that there are people who say it looks fine. But it's the people who see it don't want it there. Camille – No. Barbara Strong – Can someone go there and help him so he doesn't have to keep move it? Camille – We tried that and we were told we were harassing them.

Donnamarie Pasternack, 4 The Curve Road – I spoke at the last meeting as well. I live across the street. I don't notice the shed at all unless I'm really looking for it. They did a great job matching it to the house. There are people in the community that have bushes that don't look good. Meanwhile this shed fits right in and it also give them privacy from the neighbors across the street. I think this should be an exception since this is tastefully done.

Chairman Richard McClernon read the Lake Louise Marie Homeowners Association letter.

PUBLIC COMMENT CLOSE:

A motion to close the public hearing was made by Richard Benson and seconded by Jay Mendels
5 in favor; 0 opposed

AREA VARIANCE CRITERIA:

(1) Whether benefit can be achieved by other means feasible to applicant; Richard Benson Vote Yes - They have the opportunity to move it. Jay Mendels Voted Yes - They can work with the Homeowners Association. Sean Walker Voted Yes – They will have to work together to figure this out. Barbara Strong Vote Yes and Chairman Richard McClernon Voted Yes - I believe it can be move just inside the edge of the house and still meet the 10-foot requirement. They have to find the property lines first.

(2) Undesirable change in neighborhood character or to nearby properties; Richard Benson Voted Yes - As is but could be rectified. Sean Walker Voted Yes, Barbara Strong Voted No, Jay Mendels Vote No and Chairman Richard McClernon Voted Yes- It's not that bad looking but I don't live there.

(3) Whether request is substantial; Jay Mendels Voted Yes, Richard Benson Voted No - It's not that far off from where you can meet the zoning requirement. Barbara Strong Voted Yes, Sean Walker Voted No and Chairman Richard McClernon Voted No - It's not that far off the side of the house.

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

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

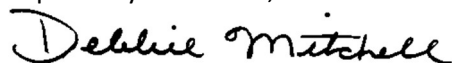
A motion to approve the variance was made by

A motion to disapprove the requested variance was made by Jay Mendels and seconded by Richard Benson
5 in favor; 0 opposed

Chairman Richard McClernon – I'm sorry but you are going to have to move the shed. You are going to need a survey to determine where the property lines are.

A motion to close the meeting at 8:47 pm was made by Jay Mendels and seconded by Sean Walker
5 In favor; 0 opposed

Respectfully submitted,



Debbie Mitchell
Secretary
Town of Thompson Zoning Board of Appeals