

JOIN ZOOM MEETING:

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+1-646-558-8656

Meeting ID: 826 8648 4337

TOWN OF THOMPSON
-Regular Meeting Agenda-

THIS MEETING WILL BE HELD IN-PERSON
LOCATED AT TOWN HALL, 4052 STATE ROUTE 42,
MONTICELLO, NY 12701. THE MEETING WILL
ALSO BE STREAMED LIVE ON ZOOM: TO JOIN
PLEASE SEE TOWN WEBSITE AT:
WWW.TOWNOFTHOMPSON.COM

TUESDAY, JULY 05, 2022

7:00 PM MEETING

CALL TO ORDER

ROLL CALL

PLEDGE TO THE FLAG

APPROVAL OF PREVIOUS MINUTES: June 21, 2022 Regular Town Board Meeting

PUBLIC COMMENT

CORRESPONDENCE:

- **Carly Glassbrenner, NYS EFC:** Email dated 06/28/2022 to Supervisor Rieber and other representatives Re: Emerald Green Pump Station No. 6 Engineering Planning Grant Study – MWBE Utilization Plan & SDVOB Waiver Acceptance.
- **Steven N. Mogel, Attorney at Law for Petitioners-Plaintiffs:** Notice of Petition, Electronic Filing & Verified Petition and Complaint Re: Article 78 Proceeding – Carl D. Kerber, Charles Benson and Stephanie Benson vs. Town of Thompson Planning Board, Zoning Board of Appeals and NYSHA, Inc. Re: Hamaspik Resort Project approvals/permit.

AGENDA ITEMS:

1) SPECTRUM COMMUNICATIONS SOLUTIONS PROPOSAL FOR INTERNET, CABLE & TV SERVICES AT EAST MONGAUP RIVER TOWN PARK, 181 TOWN PARK ROAD, MONTICELLO – INSTALLATION COST \$30,000.00 + MONTHLY CHARGES

2) PARKS & RECREATION DEPARTMENT: REVIEW & APPROVE PROPOSAL FOR ZUMBA FITNESS PROGRAM – TUESDAYS & THURSDAYS 5:30 PM – 6:30 PM, 07/07/2022 – 09/13/2022

3) PARKS & RECREATION DEPARTMENT: REVIEW & APPROVE CONTRACT WITH FORESTBURGH PLAYHOUSE FOR TOWN OF THOMPSON YMCA SUMMER YOUTH DAY CAMP TRIP TO SEE A SHOW ON WEDNESDAY, 07/21/2022 AT 11AM FOR A TOTAL COST OF \$2,628.00 + ADDITIONAL COST FOR BUSING

4) BILLS OVER \$2,500.00

5) BUDGET TRANSFERS & AMENDMENTS

6) ORDER BILLS PAID

OLD BUSINESS

NEW BUSINESS

REPORTS: SUPERVISOR, COUNCILMEN, & DEPARTMENT HEADS

PUBLIC COMMENT

ADJOURN

Minutes of a Regular Meeting of the Town Board of the Town of Thompson held at the Town Hall, 4052 State Route 42, Monticello, New York and also held remotely via Zoom on **June 21, 2022.**

ROLL CALL:

Present: Councilwoman Melinda S. Meddaugh, Presiding
Councilman Scott S. Mace
Councilman John A. Pavese

Absent: Supervisor William J. Rieber, Jr.
Councilman Ryan T. Schock

DRAFT

Also Present: Marilee J. Calhoun, Town Clerk
Michael B. Mednick, Attorney for the Town
Patrice Chester, Deputy Administrator
Melissa DeMarmels, Town Comptroller
Glenn Somers, Parks & Recreation Superintendent
Michael G. Messenger, Water & Sewer Superintendent
James L. Carnell, Jr., Director of Building, Planning & Zoning

Present via Zoom: Kelly M. Murran, Deputy Town Clerk

REGULAR MEETING – CALL TO ORDER

Deputy Supervisor Meddaugh opened the meeting at 7:00 PM with the Pledge to the Flag. This meeting was held in person and remotely via Videoconferencing streamed live on the Zoom app, which is accessible to the public. The meeting is also being recorded for full transcription purposes should it be required.

APPROVAL OF MINUTES:

On a motion made by Councilman Mace and seconded by Councilman Pavese the minutes of the June 7th, 2022 Regular Town Board Meeting were approved with one correction as follows: Page 11, COUNCILMEN & DEPARTMENT HEAD REPORTS: Water & Sewer Superintendent Michael G. Messenger – Delete second comment regarding the East Mongaup River Park, which is listed under Parks & Recreation Superintendent Glenn Somers report.

Vote: Ayes 3 Pavese, Meddaugh and Mace
Nays 0
Absent 2 Rieber and Schock

PUBLIC COMMENT:

There was no public comment given.

CORRESPONDENCE:

Deputy Supervisor Meddaugh reported on correspondence that was sent or received as follows:

9) BUDGET TRANSFERS & AMENDMENTS

To: Town of Thompson - Supervisor and Council
 From: Melissa DeMarmels - Comptroller
 Re: Budget Transfers & Amendments - FYE 12/31/22
 Board
 Date: Meeting 6/21/2022

Memo: The following Budget Transfers & Amendments are proposed for the following purposes:

- 1) Amend the A Fund budget for actual amount of Sullivan Renaissance Grant received
- 2) Amend B Fund budget for contract with Planning and Zoning Board Attorney
- 3) Transfer funds from debt allocation to O&M in the Rock Hill lighting district
- 4) Amend Rock Hill/Emerald Green Sewer district budget for additional revenue (scrap sales) and expenses (bond principal)

The Following Resolution Was Duly Adopted: Res. No. 259 of the Year 2022.

Resolved, that the following budgetary transfers hereby be approved as presented.

Town Of Thompson

Budget Transfers/Amendments

FYE 12/31/22

Town Board Meeting Date: 6/21/2022

01/01/2022

<u>Account Number</u>	<u>Account Description</u>		<u>Revenue Increase</u>	<u>Revenue Decrease</u>	<u>Appropriation Increase</u>	<u>Appropriation Decrease</u>
A000.2770.300	Gerry Foundation Grant		15,000.00			
A000.8510.401	Beautification - Gerry Foundation Grant				15,000.00	

NEW BUSINESS:

**HIGHWAY DEPT.: REQUEST TO DECLARE SURPLUS EQUIPMENT – 2019
HITACHI ZW180 WHEEL LOADER, SERIAL # RYUPD860HH8405309**

The Following Resolution Was Duly Adopted: Res. No. 261 of the Year 2022.

Resolved, that the following vehicles, equipment &/or items from the Highway Department hereby be declared surplus and that the Highway Superintendent be authorized to either sell at auction, bid or scrap said vehicles/equipment/items, whichever is best financially. The vehicles/equipment/items are listed as follows:

- 1) 2019 Hitachi ZW180 Wheel Loader, Serial # RYUPD860HH8405309

Moved by: Councilman Pavese Seconded by: Councilman Mace

Vote: Ayes 3 Meddaugh, Pavese and Mace

Nays 0

Absent 2 Rieber and Schock

CHARM ESTATES: APPROVE RETURN OF \$175,000.00 IN CASH BONDS

The Following Resolution Was Duly Adopted: Res. No. 262 of the Year 2022.

Resolved, that the Town Board of the Town of Thompson hereby authorizes the refund of the (4) Outstanding Cash Bonds as broken down in the request in the amount of \$175,000.00 to Charm Estates as they are no longer required.

Moved by: Councilman Mace Seconded by: Councilman Pavese

Vote: Ayes 3 Pavese, Meddaugh and Mace

Nays 0

Absent 2 Rieber and Schock

**DISCUSS & APPROVE: RISK MITIGATION SERVICES PROPOSAL WITH
ALLIANCE RISK GROUP INC. FOR PRE-EMPLOYMENT BACKGROUND
INVESTIGATIONS**

The Following Resolution Was Duly Adopted: Res. No. 263 of the Year 2022.

Resolved, that the Proposal of Alliance Risk Group Inc. for background investigations/checks for volunteer and program leaders with the Town Parks & Recreation Program as per the New York Volunteer Package rate sheet attached², which is hereby approved as presented and the Town Supervisor is hereby authorized to execute acceptance of said proposal.

Motion by: Councilman Pavese Seconded by: Councilman Mace

Vote: Ayes 3 Pavese, Meddaugh, and Mace

Nays 0

Absent 2 Rieber and Schock

**PARKS & RECREATION DEPARTMENT: REVIEW & APPROVE PROPOSAL FOR
FLAG FOOTBALL PROGRAM – SATURDAYS 11AM-3PM, 07/09/2022-08/20/2022**

² ATTACHMENT: ALLIANCE RISK GROUP INC. NEW YORK VOLUNTEER PACKAGE RATE SHEET.

Comptroller Melissa DeMarmels

- According to the Town Auditor's the Town Annual Financials for FYE 12/31/2021 should be available shortly.

Councilman John A. Pavese

- Monticello Elks Lodge Annual Seasonal Drive-Thru Chicken BBQ – July 6th, 2022 from 4PM-7PM.

Councilwoman Melinda S. Meddaugh

- Rock Hill Summer Concert Series will be held every Wednesday, July – August at 6:30 PM to 8:30 PM, held at the Rock Hill Farmers Market Park.

PUBLIC COMMENT:

There was no public comment given.

ANNOUNCEMENTS, REMINDERS & FOR YOUR INFORMATION

- 07/05/22 at 7PM: Regular Town Board Meeting.
- 07/19/22 at 6PM: Town Board Work-Session has been cancelled.
- 07/19/22 at 7PM: Joint Public Hearing with Village of Monticello – Comolo LLC Annexation Petition Request, Property Located Along Rock Ridge Avenue, Monticello, SBL#'s 13.-4-2, 3.1, 3.2, 3.3, 9, 10 & 11 to be held at Town Hall.
- 07/19/22 at 7PM: Regular Town Board Meeting.

ADJOURNMENT

On a motion made by Councilman Pavese and seconded by Councilman Mace the meeting was adjourned at 7:44 PM. All board members voted in favor of adjourning the meeting.

The Zoom Livestream Videoconferencing connection and Facebook Live were disconnected.

Respectfully Submitted By:



Marilee J. Calhoun, Town Clerk

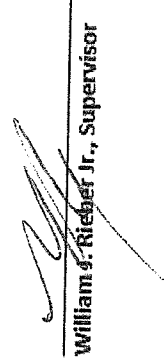


Town of Thompson
Warrant Report

Town of Thompson
Warrant Report

I hereby certify that the vouchers listed on the attached abstracts of prepaid and claims payable have been duly audited and are presented for payment to the Town Board of the Town of Thompson at the regular meeting there of, held on the 21ST day of June 2022 in the amounts respectively specified. Authorization is hereby given and direction is made to pay each of the claimants in the amount as specified upon each claim stated.


Melissa DeMarmels, Comptroller


William J. Rieber Jr., Supervisor



Town of Thompson
Warrant Report

SSAR	Adelaar Sewer District	\$5,409.04	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,409.04	\$0.00
SSHC	Harris Consolidated Sewer District	\$4,017.45	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,017.45	\$0.00
SSKC	Kiamesha Consolidated Sewer District	\$38,208.14	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$38,208.14	\$0.00
SSM0	MELODY LAKE SEWER DISTR.	\$1,622.11	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,622.11	\$0.00
SSRC	Rock Hill Emerald Green Consolidated Sewer Dist	\$21,364.56	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$21,364.56	\$0.00
SSS0	SACKETT LAKE SEWER DISTR	\$7,717.92	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,717.92	\$0.00
SWA0	ADELAAR RESORT WATER DISTRICT	\$1,012.27	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,012.27	\$0.00
SWC0	COLD SPRING WATER	\$567.27	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$567.27	\$0.00
SWD0	DILLON WATER DISTRICT	\$1,616.52	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,616.52	\$0.00
SWK0	KIAMESHA RT42 WATER	\$31.15	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$31.15	\$0.00
SWL0	LUCKY LAKE WATER DISTR	\$81.21	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$81.21	\$0.00
SWM0	MELODY LAKE WATER	\$315.82	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$315.82	\$0.00
T000	TRUST & AGENCY FUND	\$2,721.39	\$0.00	\$0.00	\$0.00	\$0.00	\$13,273.35	\$15,994.74	\$0.00
Grand Totals		\$531,268.15	\$0.00	\$250,000.00	\$0.00	\$791,491.01	\$0.00	\$1,572,759.16	\$0.00



Town of Thompson
Warrant Report

Unposted Batch Totals

Fund	Fund Description	Invoice Batch	Manual Checks	Purchase Cards	Total
Unposted Batch Grand Totals		\$0.00	\$0.00	\$0.00	\$0.00

Posted Batch Totals

Fund	Fund Description	Invoice Batch		Manual Checks		Purchase Cards		Total
		Paid	Unpaid	Paid	Unpaid	Paid	Unpaid	
A000	GENERAL FUND TOWN WIDE	\$92,915.72	\$0.00	\$0.00	\$0.00	\$742,915.72	\$0.00	\$742,915.72
B000	GENERAL TOWN OUTSIDE	\$200,014.38	\$0.00	\$250,000.00	\$0.00	\$450,014.38	\$0.00	\$450,014.38
CD00	HOME COMM. DEV. FUND	\$0.00	\$0.00	\$0.00	\$0.00	\$128,217.66	\$0.00	\$128,217.66
DA00	HWY#3 / 4 - TOWN WIDE	\$49,281.55	\$0.00	\$0.00	\$0.00	\$49,281.55	\$0.00	\$49,281.55
DB00	HWY#1 - TOWN OUTSIDE	\$104,371.65	\$0.00	\$0.00	\$0.00	\$104,371.65	\$0.00	\$104,371.65
SSAR	Adelaar Sewer District	\$5,409.04	\$0.00	\$0.00	\$0.00	\$5,409.04	\$0.00	\$5,409.04
SSHC	Harris Consolidated Sewer District	\$4,017.45	\$0.00	\$0.00	\$0.00	\$4,017.45	\$0.00	\$4,017.45
SSKC	Kiamesha Consolidated Sewer District	\$38,208.14	\$0.00	\$0.00	\$0.00	\$38,208.14	\$0.00	\$38,208.14
SSMO	MELODY LAKE SEWER DISTR.	\$1,622.11	\$0.00	\$0.00	\$0.00	\$1,622.11	\$0.00	\$1,622.11
SSRO	Rock Hill Emerald Green Consolidated Sewer Dist	\$21,364.56	\$0.00	\$0.00	\$0.00	\$21,364.56	\$0.00	\$21,364.56
SSSO	SACKETT LAKE SEWER DISTR	\$7,717.92	\$0.00	\$0.00	\$0.00	\$7,717.92	\$0.00	\$7,717.92
SWA0	ADELAAR RESORT WATER DISTRICT	\$1,012.27	\$0.00	\$0.00	\$0.00	\$1,012.27	\$0.00	\$1,012.27
SWC0	COLD SPRING WATER	\$567.27	\$0.00	\$0.00	\$0.00	\$567.27	\$0.00	\$567.27
SWD0	DILLON WATER DISTRICT	\$1,616.52	\$0.00	\$0.00	\$0.00	\$1,616.52	\$0.00	\$1,616.52
SWK0	KIAMESHA RT42 WATER	\$31.15	\$0.00	\$0.00	\$0.00	\$31.15	\$0.00	\$31.15
SWL0	LUCKY LAKE WATER DISTR	\$81.21	\$0.00	\$0.00	\$0.00	\$81.21	\$0.00	\$81.21
SWM0	MELODY LAKE WATER	\$315.82	\$0.00	\$0.00	\$0.00	\$315.82	\$0.00	\$315.82
T000	TRUST & AGENCY FUND	\$2,721.39	\$0.00	\$0.00	\$0.00	\$2,721.39	\$0.00	\$2,721.39
Posted Batch Grand Totals		\$531,268.15	\$0.00	\$250,000.00	\$0.00	\$791,491.01	\$0.00	\$1,572,759.16

Report Grand Totals

Fund	Fund Description	Invoice Batch		Manual Checks		Purchase Cards		Total
		Paid	Unpaid	Paid	Unpaid	Paid	Unpaid	
A000	GENERAL FUND TOWN WIDE	\$92,915.72	\$0.00	\$0.00	\$0.00	\$742,915.72	\$0.00	\$742,915.72
B000	GENERAL TOWN OUTSIDE	\$200,014.38	\$0.00	\$250,000.00	\$0.00	\$450,014.38	\$0.00	\$450,014.38
CD00	HOME COMM. DEV. FUND	\$0.00	\$0.00	\$0.00	\$0.00	\$128,217.66	\$0.00	\$128,217.66
DA00	HWY#3 / 4 - TOWN WIDE	\$49,281.55	\$0.00	\$0.00	\$0.00	\$49,281.55	\$0.00	\$49,281.55
DB00	HWY#1 - TOWN OUTSIDE	\$104,371.65	\$0.00	\$0.00	\$0.00	\$104,371.65	\$0.00	\$104,371.65



Pricing Details

There are no monthly fees or minimum usage requirements, and you are only invoiced for services requested (hassle free!). Cost is per search.

NEW YORK VOLUNTEER PACKAGE:

STATEWIDE* \$35.25	COUNTY* \$38.00
<ul style="list-style-type: none"> • Social Security/Address History Trace • Statewide Criminal Record Search (includes every county in NY) • National Sex Offender Registry Search 	<ul style="list-style-type: none"> • Social Security/Address History Trace • Sullivan County Criminal Record Search Only • National Sex Offender Registry Search

Please note: The State of NY criminal record check has a court access fee of \$96.00 that is added to the Statewide package listed above. If your candidate has lived in Sullivan County for the past 7 years, we can do the county criminal search at the lower overall cost. If your candidates has lived in a county where a county search isn't available or reliable, a statewide search will be conducted with the additional state access fee.

*Please note that court access fees are not included in the price listed above, and can be found on our website by clicking here: [Statewide Criminal and DMV Statutory Fee chart](#). Additionally, there are times where additional fees are associated with obtaining education and/or employment verifications. We can contact you prior to continuing on with the search if a fee exceeds a certain amount. Price of packages are base price, additional searches added will be additional; for example multiple education verifications, employment, etc. Please call with questions.

C

Supervisor (Town of Thompson)

From: Glassbrenner, Carly (EFC) <Carly.Glassbrenner@efc.ny.gov>
Sent: Tuesday, June 28, 2022 12:08 PM
To: supervisor@townofthompson.com
Cc: Lanahan, Rebecca (EFC); Petrone, Angela (EFC); Brown, Dwight A (EFC)
Subject: EFC MWBE UP AND SDVOB WAIVER ACCEPTANCE - Thompson (T) 111467 MHE Engineering
Attachments: Thompson (T) 111467 MHE Engineering MWBE UP REVIEW 2022-6-28.pdf; Thompson (T) 111467 MHE Engineering SDVOB WAIVER REVIEW 2022-6-28.pdf; MWBE and SDVOB -UP or Partial Waiver Approval Letter (MBO to Contractor).docx

Good Morning Supervisor Rieber:

NYSEFC has reviewed and **accepted** your MWBE Utilization Plan and SDVOB waiver request for contract **Thompson (T) 111467 MHE Engineering**. Please see the attached UP Review for a summary of EFC's determination.

Attached is a sample letter you should use to notify the contractor/provider that their UP [*waiver*] is approved and to remind them of their obligations during the life of their contract.

Please remember, if the contract value increases due to change orders or amendments over \$25,000 a revised Utilization Plan may be required. The contractor should seek additional M/WBE participation when the scope of work increases, if there is a meaningful opportunity for M/WBE participation. EFC will review the change order or amendment to make this determination. Change orders or amendments should be forwarded to EFC upon execution.

If you have any questions, please contact me at the number below.

Best,

Carly

Carly Glassbrenner
Program Compliance Specialist I

NYS Environmental Facilities Corporation
625 Broadway, Albany, New York 12207
(518) 402-7396 (p) | carly.glassbrenner@efc.ny.gov



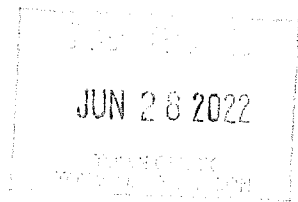
**CLEAN WATERSHEDS
NEEDS SURVEY**

Help EFC fund as many water
quality projects as possible

efc.ny.gov/needs

C2

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF**



@ 1:56 PM
MGP

-----X
Application of CARL D. KERBER, CHARLES BENSON,
and STEPHANIE BENSON,

Petitioners-Plaintiff

- against -

Index No. E2022-1052

TOWN OF THOMPSON PLANNING BOARD, TOWN OF THOMPSON ZONING
BOARD OF APPEALS, and NYSHA, INC., Respondents-Defendants.

**NOTICE OF ELECTRONIC FILING
(Consensual Case)
(Uniform Rule § 202.5-b)**

You have received this Notice because:

- 1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and
- 2) You are a Defendant/Respondent (a party) in this case.

• If you are represented by an attorney:

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

• If you are not represented by an attorney:

You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.

If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.

The benefits of participating in e-filing include:

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

To register for e-filing or for more information about how e-filing works:

- visit: <http://www.nycourts.gov/efile-unrepresented> or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov

To find legal information to help you represent yourself visit www.nycourthelp.gov

Information for Attorneys

An attorney representing a party who is served with this notice must either consent or decline consent to electronic filing and service through NYSCEF for this case.

Attorneys registered with NYSCEF may record their consent electronically in the manner provided at the NYSCEF site. Attorneys not registered with NYSCEF but intending to participate in e-filing must first create a NYSCEF account and obtain a user ID and password prior to recording their consent by going to www.nycourts.gov/efile

Attorneys declining to consent must file with the court and serve on all parties of record a declination of consent.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: nyscef@nycourts.gov).

Dated: 06/26/2022

Name: Steven N. Mogel

Address: 457 Broadway, Ste. 1
Monticello, NY 12701

Firm Name: Steven N. Mogel, Atty. at Law

Phone : (845) 791-4303

E-Mail: smogel@sullivancountylawyers.com

To: Town of Thompson
Planning Board
4052 Route 42
Monticello, NY 12701

6/6/18

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN**

JUN 28 2022

-----X
**Application of CARL D. KERBER, CHARLES BENSON,
and STEPHANIE BENSON,**

Petitioners-Plaintiffs,

**NOTICE OF
PETITION**

Ⓢ 1:56 PM

(Signature)

**For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules and a Declaratory Judgment Pursuant to
Section 3001 of the Civil Practice Law and Rules**

Index No.: E2022-1052

-against-

**TOWN OF THOMPSON PLANNING BOARD, TOWN OF
THOMPSON ZONING BOARD OF APPEALS, and NYSHA, INC.,**

Respondents-Defendants.

-----X
PLEASE TAKE NOTICE that upon the annexed joint petition and complaint of Steven N. Mogel, Esq., verified the 15th day of June, 2022, together with the exhibits annexed thereto, an application will be made to this Court, at the Sullivan County Courthouse, located at 414 Broadway, Monticello, New York on the 21st day of July, 2022 at 9:30 a.m., or as soon thereafter as counsel can be heard, for judgment pursuant to Article 78 of the Civil Practice Law and Rules and a declaratory judgment pursuant to Section 3001 of the Civil Practice and Rules, granting the following relief:

- a) Vacating and annulling a decision issued on or about May 11, 2022 by the Town of Thompson Planning Board by resolution dated May 11, 2022 and filed with the Town of Thompson Town Clerk on June 2, 2022, granting Respondent NYSHA, Inc. a special use permit to operate a Sleep Away Camp, upon the grounds that same is illegal, arbitrary and capricious, and not based upon substantial evidence; and
- b) Vacating and annulling a decision issued on or about December 14, 2021 by the Town of Thompson Zoning Board of Appeals that the proposed usage of the real property at issue herein is properly classified as a sleep-away summer camp, upon the grounds that same was illegal, arbitrary and capricious, and not based upon substantial evidence; and

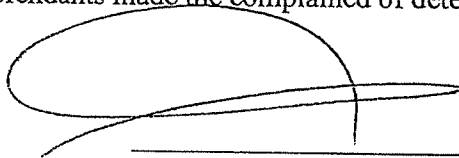
- c) Declaring that a public hearing is required before a town Zoning Board of Appeals may grant a variance, rule on an appeal or decide any other matter referred to it under local law pursuant to Town Law §267-a (7).

PLEASE TAKE FURTHER NOTICE that demand is hereby made that Respondents-Defendants, within the time prescribed by CPLR 7804, send to this Court, with a certified copy to Petitioner-Plaintiff, the certified record in transcript of the proceeding under consideration, together with the entire official file containing all records in this matter held by Respondents-Defendants.

PLEASE TAKE FURTHER NOTICE that a verified answer, supporting affidavits, and cross motions, if any, must be served at least five (5) days before the return date of this application pursuant to Civil Practice Law and Rules Section 7804 (c).

Sullivan County is designated as the venue of this proceeding as it is within the judicial district where the Respondent-Defendants made the complained of determination.

Dated: June 24, 2022
Monticello, New York



STEVEN N. MOGEL
Attorney at Law
Attorney for Petitioners-Plaintiffs
457 Broadway, Suite 16A
Monticello, New York 12701
(845) 791-4303

TO: Town of Thompson Planning Board
4052 Route 42
Monticello, NY 12701

Town of Thompson Zoning Board
4052 Route 42
Monticello, NY 12701

NYSHA, Inc.
1 Hamaspik Way
Monroe, NY 10950

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN**

-----X
**Application of CARL D. KERBER, CHARLES BENSON,
and STEPHANIE BENSON,**

Petitioners-Plaintiffs,

**VERIFIED PETITION
AND COMPLAINT**

**For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules and a Declaratory Judgment Pursuant to
Section 3001 of the Civil Practice Law and Rules**

Index No.: E2022-1052

-against-

**TOWN OF THOMPSON PLANNING BOARD, TOWN OF THOMPSON
ZONING BOARD OF APPEALS, and NYSHA, INC.,**

Respondents-Defendants.
-----X

Petitioners-Plaintiffs CARL D. KERBER, CHARLES BENSON, and STEPHANIE BENSON,
by and through their attorney, Steven N. Mogel, Esq., as and for their Verified Petition and Complaint
allege as follows:

1. This proceeding is commenced pursuant to Article 78 of the Civil Practice Law and Rules
and §3001 of the Civil Practice Law and Rules seeking a judgment:
 - a. Vacating and annulling a decision issued on or about May 11, 2022 by the Town of
Thompson Planning Board (“Planning Board”) by resolution dated May 11, 2022
and filed with the Town of Thompson Town Clerk on June 2, 2022 (“PB
Decision”), granting Respondent NYSHA, Inc. a special use permit to operate a
Sleep Away Camp, upon the grounds that same is illegal, arbitrary and capricious,
and not based upon substantial evidence; and
 - b. Vacating and annulling a decision issued on or about December 14, 2021 by the
Town of Thompson Zoning Board of Appeals (“ZBA Decision”) that the proposed

usage of the real property at issue herein is properly classified as a sleep-away summer camp, upon the grounds that same was illegal, arbitrary and capricious, and not based upon substantial evidence; and

- c. Declaring that a public hearing is required before a town Zoning Board of Appeals may grant a variance, rule on an appeal or decide any other matter referred to it under local law pursuant to Town Law §267-a (7).

2. Copies of the PB Decision and ZBA Decision are annexed hereto as Exhibits "1" and "2," respectively.

THE PARTIES

3. Petitioner-Plaintiff CARL D. KERBER (hereinafter "Petitioner Kerber") is an individual who is an owner in fee of 346 Rock Hill Drive, Rock Hill, NY, more particularly known as Town of Thompson SBL No. 35.-1-23. Petitioner Kerber's property is located approximately 1,100 feet from the real property which is the subject of the Decisions, i.e., 283 Rock Hill Drive, Rock Hill, New York 12775, more particularly known as Town of Thompson SBL Nos. 35.-1-7.1 and 7.4, located in the HC1 and HC2 zones ("Subject Property").

4. Petitioner-Plaintiff CHARLES BENSON (hereinafter "Petitioner C. Benson") is an individual who is an owner in fee of 358 Rock Hill Drive, Rock Hill, NY, more particularly known as Town of Thompson SBL No. 35.-1-22. Petitioner C. Benson's property is located approximately 1,400 feet from the Subject Property.

5. Petitioner-Plaintiff STEPHANIE BENSON (hereinafter "Petitioner S. Benson," together with Petitioners C. Benson and Kerber known as "Petitioners")¹ is an individual who is an owner in fee of 358 Rock Hill Drive, Rock Hill, NY, more particularly known as Town of Thompson SBL No.

¹ Petitioners are associated with Lakes Communities Alliance ("LCA"), an association consisting of members of the Lake Louise Marie, Wanaksink Lake, Masten Lake, Yankee Lake, and Wolf Lake, as well as Iroquois Spring Summer Camp, Rock Hill, and other communities which monitors proposed developments in the Five Lakes area and its environs.

35.-1-22. Petitioner S. Benson's property is located approximately 1,400 feet from the Subject Property

6. Respondent-Defendant TOWN OF THOMPSON PLANNING BOARD ("Planning Board") is a municipal board whose members are appointed by the Town of Thompson Town Board, as authorized by Town Law §271(1) and as mandated by Town of Thompson Code §250-49, and is tasked primarily with the review and approval of site plans and the review, grant, or denial of special use permits within the Town of Thompson.

7. Respondent-Defendant TOWN OF THOMPSON ZONING BOARD OF APPEALS ("ZBA") is a municipal board whose members are appointed by the Town of Thompson Town Board, as mandated by Town Law §267(2) and Town of Thompson Zoning Code §250-45, and is tasked primarily with the appellate review of any decision, requirement, order, interpretation or determination of the Town of Thompson Building Inspector or other code enforcement officer, and the grant or denial of zoning variances within the Town of Thompson.

8. Respondent-Defendant NYSHA, INC. ("Respondent NYSHA") is, upon information and belief, a duly formed domestic not-for-profit corporation with an address of 1 Hamaspik Way, Monroe, NY 10950 and is the owner in fee of the Subject Property.

STANDING

9. The Court of Appeals in Sun-Brite Car Wash, Inc. v. Board of Zoning and Appeals of Town of North Hempstead, 69 N.Y.2d 406 (1987) set forth a two-prong test for the establishment of standing:

"The fact that a person received, or would be entitled to receive, mandatory notice of an administrative hearing because it owns property adjacent or very close to the property in issue gives rise to a presumption of standing in a zoning case. But even in the absence of such notice it is reasonable to assume that, when the use is changed, a person with property located in the immediate vicinity of the subject property will be

(cont.)

adversely affected in a way different from the community at large; loss of value of individual property may be presumed from depreciation of the character of the immediate neighborhood. Thus, an allegation of close proximity alone may give rise to an inference of damage or injury that enables a nearby owner to challenge a zoning board decision without proof of actual injury [citations omitted].”

The status of neighbor does not, however, automatically provide the entitlement, or admission ticket, to judicial review in every instance . . . [P]etitioner must also satisfy the other half of the test for standing to seek judicial review of administrative action--that “the interest asserted is arguably within the zone of interest to be protected by the statute” [citation omitted]. Petitioner's status may be challenged on the ground that the interest it is asserting is not arguably within the “zone of interest” which the regulation is designed to protect. In such instances, even where petitioner's premises are physically close to the subject property, an ad hoc determination may be required as to whether a particular petitioner itself has a legally protectable interest so as to confer standing.

Id at 413–15.

10. While Petitioners were not entitled to receive mandatory notice of the administrative hearings described herein and, therefore, do not receive the presumption of standing conferred by Sun-Brite and its progeny, the Petitioners are undoubtedly located in the immediate vicinity of the Subject Property and will be adversely affected in a way different from the community at large.

11. Specifically, the Petitioners reside immediately adjacent to a dangerous curve on Rock Hill Drive upon which buses and other vehicles transporting children to and from the Subject Property may travel. Given their proximity to this curve, these safety issues adversely affect Petitioners “in a way different from the community at large.”

12. Petitioners are also clearly within the “zone of interest to be protected by the statute”; the statute at issue being specifically the use table for the zoning code for the Town of Thompson.

13. The Appellant in Sun-Brite objected to the relief granted by the Zoning Board of Appeals of the Town of North Hempstead solely upon the belief that such relief would result in increased

business competition an interest which, the Court of Appeals held, the zoning code is not designed to protect. Petitioners herein raise the specific objection that the change in use of the Subject Property engendered by the PB Decision and ZBA Decision directly impacts their safety, an interest the zoning code is undoubtedly designed to protect.² Petitioners, therefore, have standing to bring the instant challenge.

BACKGROUND

March 24, 2021 – July 14, 2021 Planning Board Appearances

14. The instant matter was brought before the Planning Board by Respondent NYSHA by Subdivision/Site Plan Application dated March 8, 2021 (“Application”), wherein Respondent NYSHA sought site plan review for the following changes to the Subject Property:

“Change lot line to make lot 7.1 as a 20 acres parcel. Add the use of Summer Camp, add a 25,000 sq. ft. recreational building, add a 28’ x 30’ mikvah addition, clear an area for a playfield, add three mobile homes for employees, add a swimming pool.”

A copy of the Application is annexed hereto as Exhibit “3.”

15. Respondent NYSHA first presented their proposals to the Planning Board on March 24, 2021. In response to questions from the Board and its attorney, Respondent NYSHA stated its intention to have two (2) principal uses of the Subject Property, i.e., as a “private hotel” during the

² See Town of Thompson Code at §250-1 (“There is hereby established a Zoning Law regulating and restricting the location, grouping, bulk, construction and use of buildings and structures and the development and use of land in the Town of Thompson, New York (hereinafter referred to as the “Town”), and providing fines and penalties for the violation thereof, which law is set forth in the following text, schedules and related maps forming the Zoning Law for the Town of Thompson. This Part 1 is adopted for the purposes set forth in the Municipal Home Rule Law of the State of New York in the interest of protection of order and the health, safety and well-being of persons and property and the protection and enhancement of the physical and visual environment and shall be deemed to include the following purposes, among others: . . . B. To provide adequate light, air and privacy; to secure safety from fire, flood and other danger; to prevent overcrowding or the overly intensive or inappropriate use of land; and to protect the quality of the physical environment. . . . D. To prevent and reduce traffic congestion so as to promote safe and efficient circulation of pedestrian and vehicular traffic.”).

“winter” months and as a summer camp during the summer months.³ This was the subject of some concern, confusion, and discussion.⁴

16. At the June 9, 2021 meeting, discussion of the use of the entirety of the Subject Property as a summer camp and a “private hotel” at different times of the year continued. The June 9, 2021 minutes record the following:

“Mr. Bzydlo⁵ – . . . Both the summer camp and hotel are allowed uses in the zone. A question was if we need to do a subdivision for the dual use? We would do that division by time instead of by a Land subdivision. Camp in the summer month and Hotel outside the summer months. I would see a condition in the approval. Chairman Sush – I’ve never experienced this dual use by time share. How does the timing work and is it even possible to do this? Mr. Bzydlo – I believe it can be a condition of the special use permit and also indicated on the plans. I think you will be able to tell when it’s a camp and when it’s a hotel. The Town has code of when a sleep away camp can be used. Paula Kay – I think we really need to work through this and we can’t make a determination tonight. We don’t want to burden our Code enforcement office to try to figure out what kind of use is on the property. That should not be their issue.

. . .

Chairman Sush - I think we need to know the exact use before a Public Hearing. If it’s two things then it will generate a lot of questions. Mr. Bzydlo – It is going to be both. The property will be used as a camp then as a hotel. There is about 50 campers and staff. Since it’s a disabled camp it will have a higher Counselors to camper ration. I’m just trying to clarify that it will not be two uses at the same time. Paula Kay – That is what is in the application, but the Board needs to look at it closer to make sure it’s something we can do. When it is noted for the Hearing, the public needs to be told it’s for two uses.”

17. The June 9, 2021 Planning Board meeting concluded with scheduling the Application for a public hearing for July 14, 2021. The Planning Board adjourned the public hearing to August 4, 2021 due to COVID-19 protocols for public hearings. Copies of the Planning Board Meeting Agendas and

³ See Minutes of March 24, 2021 Planning Board Meeting, 3 (note: the page referenced herein is the page denoted on the bottom of the page).

⁴ “Mr. Kohn - It’s not like there will be separate facility for the summer camp and the Hotel. All the facility will be used for Hotel or Summer camp. During the Summer the Hotel will be mostly used as a summer camp and then in the winter it will be used as a Hotel. Chairman Kiefer - As a Hotel use will it be for the public? Mr. Kohn - It will be for private use. Helen Budrock-- Will they be shipping campers back and forth? Mr. Kohn - During the summer the Hotel will be a summer camp and, in the winter, it would be a Hotel. Helen Budrock- So basically, it’s a summer camp. Paula Kay – So it’s a sleep away camp all year long? Michael Croissant – No, in the winter it will be a private Hotel. Paula Kay – I’m a little confused on how it would fit with our definition.” *Id.*

⁵ Charles Bzydlo, Esq. is an attorney representing Respondent NYSHA in front of the Planning Board.

relevant portions of the minutes for the March 24, 2021, June 9, 2021, and July 14, 2021 meetings are annexed hereto as Exhibits “4,” “5,” and “6,” respectively.

August 4, 2021 Planning Board Public Hearing

18. A Notice of Public Hearing was published for the August 4, 2021 public hearing (“PB Public Hearing”), which described the action to be considered as “Application of HAMASPIK RESORT for Site Plan approval and Special Use permit in accordance with §250-10 and §250-11 of the Town Code of the Town of Thompson.” Despite the admonition of Paula Kay, Esq. in her capacity as Planning Board Attorney quoted above, the Notice of Public Hearing contained no indication that same was for approval of two (2) uses. In fact, the Notice of Public Hearing makes no reference to any proposed usage. The published Planning Board Meeting Agenda also does not make reference to the dual proposed uses of the Subject Property, stating only that the public hearing would be for “site plan review and special use permit for a proposed summer camp.” A copy of the August 4, 2021 Planning Board Meeting Agenda and Notice of Public Hearing are annexed hereto as Exhibit “7.”

19. The undersigned raised the above objections to the Notice of Public Hearing and the adequacy of the public hearing itself pursuant to the Town of Thompson Code⁶ by correspondence dated August 4, 2021 (“8/4/21 Mogel Correspondence”) and verbally at the PB Public Hearing.

20. The undersigned further argued that the proposed uses of the Subject Property may not be permissible thereupon. The 8/4/21 Mogel Correspondence states:

“... it is not clear that the proposed uses fit either the ‘common sense’ definitions of a hotel and summer camp, or the definitions set forth in the Code. The Board itself has raised this issue with the Applicant at prior meetings.

According to Town of Thompson Code §250-2, a hotel is defined as follows:

‘One or more buildings containing rooms intended to be used, or which are used, rented or hired out to be occupied for sleeping

⁶ The specific grounds for said objection is set forth in detail *infra*.

(cont.)

purposes by guests, and where only a general kitchen and dining room are provided within the building or an accessory building.’

The operation plan (“Operation Plan”) provided to the Board by the Applicant . . . states that the Applicant intends to discontinue using the hotel for the general public. Instead, the Applicant will limit use of the hotel exclusively to:

‘ . . . Hamaspik affiliate agencies and its entities for weekend retreats (from Thursday to Sunday), unless otherwise specified and . . . will also be available throughout the week for use to all Hamaspik agencies and its entities for corporate staff events, training and informational seminars, and workshops as needed for staff, parents, or individuals receiving services.’

While it can be argued that hotels may and commonly are used for ‘corporate staff events, training and informational seminars, and workshops,’ these are undoubtedly accessory uses. The primary defining use of a hotel is that reflected in the Town’s Code, i.e., rooms used for sleeping purposes by guests. It remains to be determined whether a use which does not include rooms for sleeping purposes by guests from Monday through Wednesday, and limits such guests only to Hamaspik affiliate agencies and its entities is a hotel. . . .

That the usage proposed is not truly that of a hotel seems to be admitted by the Applicant as, in the Operation Plan, the Applicant states:

‘Future plans are to use the lodgings as a *regular hotel*, where people can stay for a night or two, or as needed.’ (Emphasis added).’

Characterizing the proposed use of the Subject Property as a ‘sleep-away camp’ is similarly problematic. Town of Thompson Code §250-2 defines a sleep-away camp, in relevant part, as follows:

‘A site for recreation or instruction on a seasonal basis within the approximate time period of May 1 to October 31 offering access to recreational or educational facilities, which includes any or all of the following features: buildings or structures that are designed for warm weather, seasonal use, including cabins, bunkhouses, cafeterias, gymnasiums, community centers, administration buildings, and similar structures designed for use by camp attendees; ballfields, basketball courts, tennis courts, running tracks, swimming pools, horseback riding facilities, hiking or riding trails and similar recreational and/or educational facilities.’

(cont.)

The structures situated upon the Subject Property are not seasonal buildings. While it may be argued that the language of the Code is that such facilities may include “*any* or all of the following features,” it is equally apparent that [if that logic is adopted] any structure with a tennis court, swimming pool, and horseback riding is . . . a sleep-away camp as it has *several* of the features set forth in the law.

The usage described by Applicant, we contend, is not a multiple use as envisioned by the Code.⁷ Rather, the proposed usage is a singular, impermissible use, i.e., the Subject Property is actually akin to a “retreat center,” a use which is not defined and therefore not permitted in the HC1/HC2 zones, or a “Clubhouse or Lodge” which is defined in the Code as follows:

‘A building or land area used by a membership organization for social or recreational purposes.’

Clubhouses or Lodges are not listed as permissible uses in the HC1/HC2 zones.”

8/4/21 Mogel Correspondence, 2-4. Numerous members of the community spoke at the PB Public Hearing, expressing concern regarding the proposed usage of the Subject Property, and the potentially adverse environmental impacts upon traffic, parking, noise, etc. such uses could entail. A copy of the *8/4/21 Mogel Correspondence* and the stenographic minutes of the PB Public Hearing (“*8/4/21 Minutes*”) are annexed hereto as Exhibits “8” and “9,” respectively.

21. The undersigned concluded by urging the Planning Board to refer the application to the ZBA, stating:

“Pursuant to Town of Thompson Code §250-46, the Zoning Board of Appeals (“ZBA”) has exclusive jurisdiction over interpreting the meaning of any portion of the text, condition, or requirement of the zoning portions of the Code. As such, the Board should refer this matter to the ZBA for a determination as to the proposed use of the Subject Property.”

8/4/21 Mogel Correspondence, 4.

22. The PB Public Hearing on August 4, 2021 concluded with the record being kept open for fourteen (14) days to allow for the submission of additional written comment. *See 8/4/21 Minutes, 63.*

⁷ That the Subject Property is not truly being proposed for multiple uses is further bolstered by the fact that the division of use is only by time, rather than through usage of separate facilities on the same site. The propriety of this was previously discussed by the Board on June 9, 2021.

The undersigned submitted a memorandum by the planning firm of Nelson Pope Voorhis dated August 18, 2021 ("8/18/21 Nelson Pope Memorandum"), which further elucidated objections to the Application. A copy of the 8/18/21 Nelson Pope Memorandum is annexed hereto as Exhibit "10."

23. As urged by the undersigned and others, the Planning Board on August 25, 2021 referred the issue of determining the proposed use(s) of the Subject Property to the ZBA for an interpretation. A copy of the relevant portion of the minutes for the Planning Board's August 25, 2021 meeting is annexed hereto as Exhibit "11."

Zoning Board of Appeals

24. The requested interpretation appeared on the ZBA's September 14, 2021 and October 12, 2021 agendas, but was removed at Respondent NYSHA's request. Copies of the aforesaid agendas are annexed hereto as Exhibit "12."

25. On October 6, 2021, the undersigned and Paula Kay, Esq., in her capacity as ZBA attorney, had the following e-mail exchange:

Mogel: "Hi Paula:

I just wanted to check with you to make sure that Hamaspik is only on the agenda for 10/12 [before the ZBA] for a discussion, not a public hearing. I want to make sure to submit/appear at any public hearing on this interpretation."

Thanks, as always."

Kay: "It is only on for an interpretation so no public hearing."

Mogel: "If I submit a statement in writing, will it be accepted into the record and considered by the ZBA?"

Kay: "Not part of the record."

A copy of the above-email exchange is annexed hereto as Exhibit "13."

26. Notwithstanding that the ZBA did not conduct a public hearing or permit public comments or submissions upon the requested interpretation, the ZBA did permit Respondent NYSHA the

opportunity both to be heard and to submit a Memorandum of Law in support of their position. A copy of Respondent NYSHA's Memorandum of Law dated October 29, 2021 is annexed hereto as Exhibit "14."

27. The matter was ultimately heard by the ZBA on December 14, 2021. The December 14, 2021 minutes record the following exchange between ZBA Attorney Paula Kay and Steven Barshov, Esq., attorney for Respondent NYSHA:

"Paula Kay – I think that if the Town had a definition of a retreat, this would fall squarely in that definition. The applicant bought a functioning hotel in the town and wanted to change the use. It seems to me that you are trying to craft a use into a hotel or camp. Under our plain definition I believe that what you are proposing fits the definition. Mr. Barshov – if the board chooses to issue an interpretation that goes against my client and the interpretation is that this is not a hotel use, then my client will have the opportunity to do what all client's (sic) have and apply for a variance or go to court."

28. After hearing arguments only by Respondent NYSHA's attorney and its professionals, and with the explicit threat of litigation, the ZBA nevertheless determined unanimously that "the application doesn't meet the definition of a hotel, motel in the town code," but does "meet[] the definition of a summer camp." A copy of the December 14, 2021 ZBA Meeting Agenda and relevant portion of the draft minutes ("12/14/21 Draft ZBA Minutes") are annexed hereto as Exhibit "15."⁸

29. On February 8, 2022, Respondent NYSHA returned to the ZBA and requested a re-hearing pursuant to Town Law §267-a(12). Attorney Barshov argued that the ZBA had no jurisdiction to hear any interpretation, as the Town of Thompson's building department had previously determined that the Subject Property was being used as a hotel and that determination had not been challenged. Attorney Barshov requested:

"[I]n regards to your December minutes that you approve that portion of your decision which dealt with the camp, because there is no dispute with that. The only thing is that I ask the portion of the minutes that deals [with] the hotel decision is for the board to say

⁸ The proposed project returned to the Planning Board on December 22, 2021, wherein Attorney Kay briefly described the December 14, 2021 decision of the ZBA.

(cont.)

they didn't have jurisdiction, therefore that hotel decision would not be an official decision of the board and that would end that matter."

30. Although the ZBA did vote unanimously to grant Respondent NYSHA a re-hearing, the relief requested by Respondent NYSHA was not granted at the February 8, 2022 meeting. Instead, the ZBA determined that the matter should be held "open" until the March 8, 2022 meeting. A copy of the February 8, 2022 ZBA Meeting Agenda and relevant portion of the minutes are annexed hereto as Exhibit "16."

31. The matter did not return to the ZBA on March 8, 2022 or thereafter. Instead, at the February 23, 2022 Planning Board meeting,⁹ the Planning Board voted unanimously to "officially rescind" their referral to the ZBA for an interpretation. *See 2/23/22 Planning Board Minutes, 7.* Copies of the February 23, 2022 Planning Board Agenda and relevant portion of the minutes are annexed hereto as Exhibit "17."

32. The PB Decision was issued at the May 11, 2022 Planning Board meeting, granting Respondent NYSHA, Inc. a special use permit to operate a Sleep Away Camp for the 2022 Camp Season, i.e., July 1, 2022 through September 1, 2022.¹⁰

LEGAL ARGUMENT

Permitted Questions – Article 78 Proceedings

33. CPLR §7803 provides, in relevant part, as follows:

"The only questions that may be raised in a proceeding under this article are:

...

2. whether the body or officer proceeded, is proceeding or is about to proceed without or in excess of jurisdiction; or

⁹ This matter returned to the Planning Board on February 9, 2022, wherein Attorney Kay noted that the re-hearing before the ZBA was pending and other issues pertaining to the proposed project not relevant to the instant action were discussed.

¹⁰ The matter returned to the Planning Board on March 9, 2022 and April 13, 2022, wherein other issues pertaining to the proposed project not relevant to the instant action were discussed.

(cont.)

3. whether a determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion . . . ; or
4. whether a determination made as a result of a hearing held, and at which evidence was taken, pursuant to direction by law is, on the entire record, supported by substantial evidence.”

Standards of Review

A. Zoning Determinations

34. It is well-established that:

“The courts may set aside a zoning board determination only where the record reveals illegality, arbitrariness or abuse of discretion [citations omitted] . . . Phrased another way, the determination of the responsible officials in the affected community will be sustained if it has a rational basis and is supported by substantial evidence in the record.” [Citations omitted]

Cowan v. Kern, 41 N.Y.2d 591, 598 (Ct. of Appls 1977); CPLR 7803(4); DAVID D. SIEGEL, N.Y. Prac. §560 (4th ed.).

B. Special Use Permits

35. The standard for review of the issuance of a special use permit is predicated upon the principle that the eligibility of a use for a special use permit:

“is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood” . . . That said, the applicant still must show compliance with any legislatively imposed conditions upon the permitted use . . . A municipality “retains some discretion to evaluate each application for a special use permit, to determine whether applicable criteria have been met and to make commonsense judgments in deciding whether a particular application should be granted.”

Biggs v. Eden Renewables LLC, 188 A.D.3d 1544, 1546 (3rd Dep’t 2020) (internal citations omitted).

36. Differently stated, the decision to grant a special use permit will be upheld unless “the discretion exercised by the local body was [] arbitrary and capricious and [was not] supported by

substantial evidence.” Markowitz v. Town Bd. of Town of Oyster Bay, 200 A.D.2d 673, 674 (2nd Dept’ 1994).

37. A decision has a “rational basis” if such a decision has a “foundation in fact.” Matter of Pell v. Bd. Of Educ., 34 N.Y.2d 222, 231 (Ct. of Appls 1974) (citing 1 N. Y. Jur., Administrative Law, § 184, p. 609).

38. The “rational basis” test is interchangeable with the “arbitrary and capricious” terminology set forth in the statute and elsewhere in case law. See CPLR 7803(3); DAVID D. SIEGEL, NEW YORK PRACTICE, 967 (4th ed. 2005).

39. Whether expressed as “substantial evidence” or “rational basis,” however, “[t]he real measure, whatever the wording, is whether the determination strikes the court as rational on the record.” SIEGEL, N.Y. Prac. §560 (4th ed.).

40. If a decision is found to be rational on the record, “the determination of a reviewing board must be sustained . . . even if the reviewing Court would have reached a different result.” (Citing PMS Assets Ltd. v. Zoning Board of Appeals of the Village of Pleasantville, 98 NY2d 683 [Ct. of Appls. 2002]).

Timeliness

41. The statute of limitations for a challenge to the issuance of a special use permit is established in CPLR §274-b(9) which provides, in relevant part, as follows:

“Court review. Any person aggrieved by a decision of the planning board or such other designated body or any officer, department, board or bureau of the town may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. *Such proceedings shall be instituted within thirty days after the filing of a decision by such board in the office of the town clerk. . .*” (Emphasis added).

42. The Planning Board voted to approve the PB Decision at their May 11, 2022 meeting and prepared a resolution memorializing same, which resolution was filed with the Town of Thompson

Clerk on June 2, 2022. *See PB Decision, 1.* As this action is being brought less than thirty (30) days after the filing of the decision with the Town of Thompson's Town Clerk, the challenge to the PB Decision is timely.

43. The statute of limitations for a challenge to a determination of a zoning board of appeals is established in CPLR §267-c(1) which provides, in relevant part, as follows:

“Application to supreme court by aggrieved persons. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals or any officer, department, board or bureau of the town, may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. ***Such proceeding shall be instituted within thirty days after the filing of a decision of the board in the office of the town clerk.***”

(Emphasis added).

44. Town of Thompson Code §250-47(G) provides, in relevant part, as follows:

“G. Record of decisions. Every decision of the Zoning Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board shall be by resolution, and each such resolution shall be filed in the office of the Town Clerk by case number, under one of the following headings: “Interpretations” or “Variances,” together with all documents pertaining thereto.”

45. A review of the electronic Planning Board project folder maintained on the Town of Thompson website reveals that no ZBA resolution or other decision upon the Subject Property appears thereupon.

46. By FOIL request made May 27, 2022, the undersigned requested, *inter alia*, “[a]ny and all Town of Thompson Zoning Board of Appeals agendas, minutes, variances, interpretations, determinations, resolutions, and recordings regarding, relating, or pertaining to the Subject Property” for the period of January 1, 2021 throughout the date of the request.”

47. The June 3, 2022 response by Town of Thompson Clerk Marilee J. Calhoun provided the undersigned a copy of the draft minutes from the December 14, 2021 ZBA meeting, stating:

“Hi Steve,

Attached is a draft copy of the minutes from the 12/14/2021 Planning Board Meeting¹¹ that includes the information you have requested. Please note that these minutes have not been approved yet, they are only in draft format until after approval, which should take place at the 07/14/2022 Planning Board Meeting.¹² Let me know if you have any questions.

Thanks,”

A copy of the undersigned’s FOIL request and the June 3, 2022 response by Town of Thompson Clerk Calhoun is annexed hereto as Exhibit “18.”

48. This action, challenging the ZBA Decision, is timely as (a) it is being brought before thirty (30) days have elapsed since the filing of the ZBA Decision with the Town of Thompson Clerk;¹³ (b) the ZBA Decision is not accompanied by “a full record of the findings on which the decision is based”; (c) the ZBA Decision is not in the form of a resolution; and (d) the ZBA Decision is not filed “together with all documents pertaining thereto” in compliance with Town of Thompson Code §250-47(G).

AS AND FOR A FIRST CAUSE OF ACTION AND CLAIM FOR REVIEW

The ZBA Decision is illegal, arbitrary and capricious, and not predicated upon substantial evidence as it was reached without holding a public hearing in violation of governing NYS statute.

49. The mandatory procedure to be followed by a zoning board of appeals in exercising its allotted, statutory powers is set forth in Town Law §267-a. Town Law §267-a(7) provides, in relevant part, as follows:

“7. Hearing on appeal. The board of appeals shall fix a reasonable time for the hearing of the appeal *or other matter referred to it* and give public notice of such hearing by publication in a paper of general circulation in the town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to

¹¹ This is clearly a typographical error on the part of Town Clerk Calhoun, as there was no December 14, 2021 Planning Board meeting and the minutes annexed to the Town Clerk’s response were the draft minutes of the December 14, 2021 ZBA meeting.

¹² See fn 10.

¹³ It does not appear that the ZBA Decision was ever filed with the Office of the Town of Thompson Clerk.

the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.”

(Emphasis added).

50. As cited *supra*, Paula Kay, Esq., in her capacity as the ZBA attorney, determined that because the matter before the ZBA was for an interpretation, no public hearing need be scheduled. Attorney Kay was clearly wrong. Town Law §267-a(7) explicitly mandates that a public hearing is required for both appeals and any “other matter referred to” the ZBA. See, e.g., NEW YORK STATE DEPARTMENT OF STATE, JAMES A. COON LOCAL GOVERNMENT TECHNICAL SERIES, “*Zoning Board of Appeals*,” Publication Date: November 2005; Reprint Date: September 2021, 30 (“All three statutes require a hearing before a board of appeals may grant a variance or rule on an appeal *or decide any matter referred to it under the ordinance or local law* [citing General City Law section 81-a[7]; Town Law section 267-a[7]; and Village Law section 7-712-a[7]) (emphasis added).

51. It is, furthermore, crystal clear why Town Law requires a public hearing before a zoning board of appeals issues any ruling, i.e., because such rulings can have profound effects upon the quality of life of a municipality and the residents of the town are entitled to be heard. Even more problematic in the instant case, the ZBA allowed the proponent of the proposed project to appear, argue their case, and submit written materials, while withholding a public hearing upon statutory notice, barring public comment and declining to accept any written opposition into the record. This is baldly inequitable and, without permitting opposing viewpoints, it cannot be said that the ZBA’s determination is based upon substantial evidence.

AS AND FOR A SECOND CAUSE OF ACTION AND CLAIM FOR REVIEW

The PB Decision was illegal, arbitrary and capricious, and not predicated upon substantial evidence as the Planning Board proceeded in excess of its jurisdiction and in violation of lawful process by “rescinding” its referral to the ZBA for an interpretation, after such interpretation was already rendered and a re-hearing was pending.

52. As described above, the ZBA Decision was made upon December 14, 2021. Upon application by Respondent NYSHA, the ZBA voted on February 8, 2022 to permit Respondent NYSHA a rehearing on the ZBA Decision, as same pertained to the determination that the proposed use of the Subject Property was not as a hotel/motel. The matter was kept “open,” but Respondent NYSHA never returned to the ZBA, no public hearing was held upon the re-hearing (as is required by Town Law §267-a[7]), and the ZBA never issued a decision upon the re-hearing. Instead, the Planning Board, on February 23, 2022, “rescinded” its referral to the ZBA for an interpretation without any explanation or reasoning.

53. It is incontrovertible that the Planning Board, once it had made a referral for an interpretation to the ZBA and the *ZBA issued an interpretation thereupon and was pending a determination upon a re-hearing*, the Planning Board was bereft of any jurisdiction to now “rescind” its referral. To allow the Planning Board to simply “rescind” its referral after the ZBA already issued its determination and was considering an approved motion, would give the Planning Board unrestricted veto power over any determination it referred to the ZBA.

54. The undersigned could find no cases reported in the State of New York that found that a Planning Board had the ability to “rescind” a referral to a zoning board of appeals after a determination had been made (or, for that matter, before a determination had been made). There is no such power granted in Town Law §271, which governs the creation, authorization, and empowerment of planning

boards in the State of New York. There is no such power granted in the Town of Thompson Code,¹⁴ which explicitly provides, in relevant part, that “[a]ll provisions of this Part 1 relating to the Planning Board shall be strictly construed; the Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this Part 1 and in strict compliance with all limitations contained herein.” Town of Thompson Code §250-48, “Construal of Provisions.”

55. Although the ZBA Decision was itself illegal, as demonstrated in detail above, the Planning Board’s decision to “rescind” its referral and proceed as if no interpretation had been issued and no re-hearing was pending before the ZBA rendered the PB Decision granting a special use permit to Respondent NYSHA for a use that was still before the ZBA for interpretation was itself illegal.

AS AND FOR A THIRD CAUSE OF ACTION AND CLAIM FOR REVIEW

In the alternative, the PB Decision was illegal as the PB Public Hearing was notice and conducted in contravention of Town of Thompson Code.

56. Although Petitioners assert that the proposed use upon the Subject Property is a singular, impermissible use, the PB Decision is fatally flawed as the PB Public Hearing did not conduct a public hearing *specifically* for the purposes of addressing the issue of multiple uses upon the Subject Property.

57. Town of Thompson Code §250-6.E provides as follows:

“Except for agricultural/farming purposes, only one use shall be permitted on any lot unless otherwise approved by the Planning Board. Before granting approval, the Planning Board shall conduct a public hearing *held for such purpose.*”

(Emphasis added).

58. Respondent NYSHA requests that the Subject Property be utilized for two (2) separate uses; to wit: a hotel and a summer camp. It is clear that §250-6.E requires that a public hearing be held

¹⁴ It should be noted that, if the Town of Thompson Code granted the Planning Board the power to “rescind” any referral to the ZBA after a determination had been made and a re-hearing was pending, same would be violative of New York State statute.

solely upon the question of whether the Subject Property can be used for multiple uses. According to the 8/4/21 Planning Board agenda, this matter was before the Board for “site plan review and special use permit for a proposed summer camp.” According to the Notice of Public Hearing, the Project was before the Board for “Site Plan approval and Special Use permit.”

59. Therefore, even if it was the intention of the Board to permit and consider, within the 8/4/21 public hearing, comments regarding permitting multiple uses upon the Subject Property, the public hearing itself is inadequate for the purposes of compliance with §250-6.E. The Notice of Public Hearing, which does not mention multiple uses, is also defective.

CONCLUSION

60. The process whereby the ZBA and Planning Board have interpreted and evaluated Respondent NYSHA, Inc.’s application to change the use of the Subject Property has been rife with error from the outset, and it has not complied with the minimal legal requirements established by statute in New York State, or even the Town of Thompson itself. These flaws are not mere failures to adhere to legal technicalities. On the contrary, this process has robbed members of the community of the very limited opportunity they are accorded to have their voices heard and concerns addressed.

61. It is illegal for the Planning Board to “rescind” a referral to the ZBA which has already been decided, and is currently pending a re-hearing.

62. It is illegal to disallow a public hearing or written submissions to the ZBA when it seeks to interpret code which governs all residents of the Town of Thompson. More importantly, it is grossly inequitable to silence all other voices and consider only those of the developer.

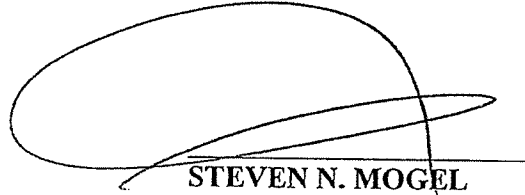
63. Petitioners do not wish to prevent or impede Respondent NYSHA from putting its property to any use permitted by the law. Petitioners insist, however, that the process whereby such usage is

determined and authorized adheres to the same legal requirements imposed upon every other similarly situated individual or entity in the State of New York and Town of Thompson.

WHEREFORE, we respectfully request that the Court issue a judgment:

- a. Vacating and annulling a decision issued on or about May 11, 2022 by the Town of Thompson Planning Board (“Planning Board”) by resolution dated May 11, 2022 and filed with the Town of Thompson Town Clerk on June 2, 2022 (“PB Decision”), granting Respondent NYSHA, Inc. a special use permit to operate a Sleep Away Camp, upon the grounds that same is illegal, arbitrary and capricious, and not based upon substantial evidence; and
- b. Vacating and annulling a decision issued on or about December 14, 2021 by the Town of Thompson Zoning Board of Appeals (“ZBA Decision”) that the proposed usage of the real property at issue herein is properly classified as a sleep-away summer camp, upon the grounds that same was illegal, arbitrary and capricious, and not based upon substantial evidence; and
- c. Declaring that a public hearing is required before a town Zoning Board of Appeals may grant a variance, rule on an appeal or decide any other matter referred to it under local law pursuant to Town Law §267-a (7);
- d. Granting such other and further relief as to this Court may seem just, proper, and equitable.

Dated: June 15, 2022
Monticello, New York

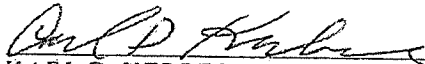


STEVEN N. MOGEL
Attorney at Law
Attorney for Petitioners
457 Broadway, Suite 1
Monticello, NY 12701
Phone: (845) 791-4303

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

^{AKC} ~~K~~ARL D. KERBER, being duly sworn, deposes and says that deponent is a Petitioner in the within action; that deponent has read the foregoing Verified Petition and knows the contents thereof; that the same is true to deponent's own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.


Clerk KARL D. KERBER

Sworn to before me this 15th
day of June, 2022.



NOTARY PUBLIC

MICHAEL MILLER
Notary Public, State of New York
Reg. No. 02MI4820370
Qualified in New York County
Commission Expires September 30, 2022

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

CHARLES BENSON, being duly sworn, deposes and says that deponent is a Petitioner in the within action; that deponent has read the foregoing Verified Petition and knows the contents thereof; that the same is true to deponent's own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.



CHARLES BENSON

Sworn to before me this 16th
day of June, 2022.



NOTARY PUBLIC

MICHAEL MILLER
Notary Public, State of New York
Reg. No. 02MI4820370
Qualified in New York County
Commission Expires September 30, 2022

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

STEPHANIE BENSON, being duly sworn, deposes and says that deponent is a Petitioner in the within action; that deponent has read the foregoing Verified Petition and knows the contents thereof; that the same is true to deponent's own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.


STEPHANIE BENSON

Sworn to before me this 16th
day of June, 2022.


NOTARY PUBLIC

MICHAEL MILLER
Notary Public, State of New York
Reg. No. 02M14820370
Qualified in New York County
Commission Expires September 30, 2022

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN**

-----X
Application of **CARL D. KERBER, CHARLES BENSON,
and STEPHANIE BENSON,**

Petitioners-Plaintiffs,

**For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules and a Declaratory Judgment Pursuant to
Section 3001 of the Civil Practice Law and Rules**

-against-

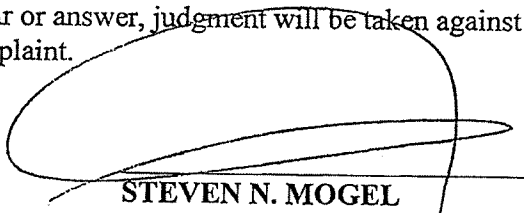
**TOWN OF THOMPSON PLANNING BOARD, TOWN OF
THOMPSON ZONING BOARD OF APPEALS, and NYSHA, INC.,**

Respondents-Defendants.
-----X

TO THE ABOVE-NAMED RESPONDENTS-DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Petitioner's-Plaintiffs' attorney within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty [30] days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: June 24, 2022
Monticello, New York


STEVEN N. MOGEL
Attorney at Law
Attorney for Petitioners-Plaintiffs
457 Broadway, Suite 1
Monticello, NY 12701
(845) 791-4303

Respondents-Defendants' addresses:

Town of Thompson Planning Board
4052 Route 42
Monticello, NY 12701

Town of Thompson Zoning Board
4052 Route 42
Monticello, NY 12701

NYSHA, Inc.
1 Hamaspik Way
Monroe, NY 10950

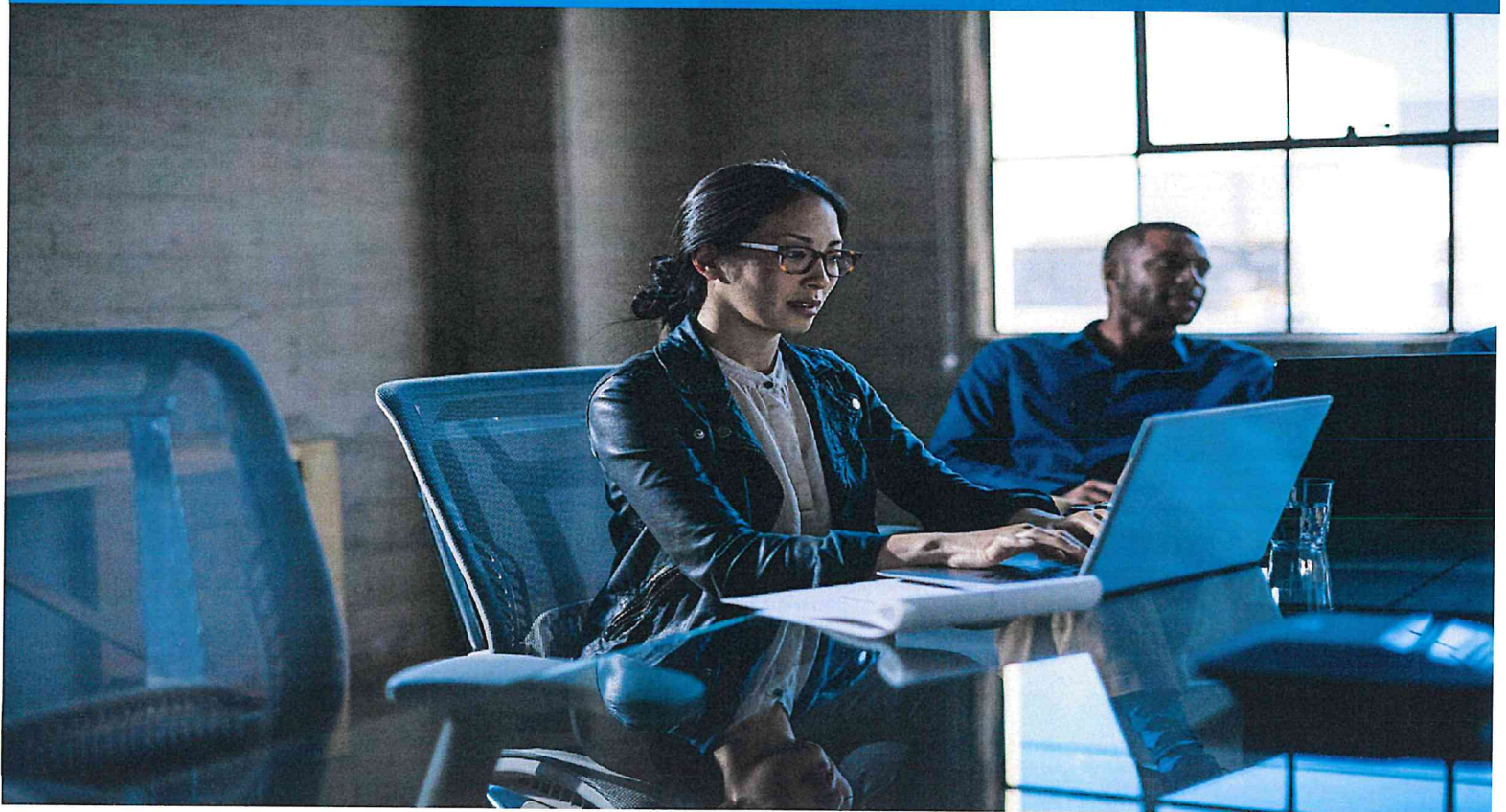
For TOWN OF THOMPSON

Communications Solutions Proposal

Prepared by:

Francesco Affrunti

Strategic Account Manager - Gov/Ed



The terms of this proposal are confidential and should not be disclosed directly or indirectly to any third party, except as may be required by law. If you and/or your agents or representative make any unauthorized disclosure, Charter shall be entitled to revoke this proposal, terminate any associated agreement without liability and to seek damages and/or injunctive relief arising from such unauthorized disclosure. This proposal is an estimate for discussion purposes only and is not intended to give rise to binding obligations for either party.

Spectrum
ENTERPRISE

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Company Overview3
Proposed services – features and benefits4
Summary7
Spectrum Enterprise services*8



Introduction

Thank you for considering Spectrum Enterprise for your communications technology needs. This proposal outlines a solution that addresses the needs and requirements we have discussed. It also provides an overview of our service delivery process and other relevant information.

I will schedule a time to review the details of this proposal with you, however, please contact me in the meantime with any questions.

I look forward to speaking with you soon about how we can partner to help you achieve your goals.

Regards,

Francesco Affrunti
Strategic Account Manager - Gov/Ed

Office: 212-379-5962

Cell: +1 6468723655

Email: francesco.affrunti@charter.com



Company Overview

Technology unlocks powerful opportunities for business success. With competition at an all-time high, you need technology that doesn't just keep up, but puts you ahead.

Spectrum Enterprise, a part of Fortune 100 company Charter Communications, provides the digital infrastructure your business needs to drive success. Our secure and scalable technology portfolio includes wide area network (WAN), Internet, managed services, voice and TV solutions.

Technology and expertise that exceeds expectations

Dense fiber reach nationwide	<ul style="list-style-type: none">• 32 metros across 41 states• 217,000+ fiber-lit buildings• 230,000+ fiber-route miles
Deep expertise	<ul style="list-style-type: none">• Fiber and IT infrastructure solutions• Over two times more active MEF-certified professionals than all other top Ethernet providers combined
Committed to delivering quality experiences	<ul style="list-style-type: none">• One team = one experience• Unparalleled service level agreements (SLAs)• Self-service portals• Network Operations Center
Recognized for solution and service excellence	<ul style="list-style-type: none">• Ranked #1 for 'Ease of doing business' by ATLANTIC-ACM• MEF 2019 award-winner• TMC 2019 SD-WAN Implementation award-winner• INTERNET TELEPHONY 2020 Hosted Call Center Excellence award

The right partner for your digital journey

Spectrum Enterprise has invested over \$2 billion to support client progress, and we continue to add over 50 fiber-lit buildings to our network every day. Our goal is to increase client access to our national fiber network. We are doing that by absorbing the costs of fiber construction for the majority of enterprise buildings within our footprint.

We're committed to ensuring an exceptional client experience, and we put the needs of our clients at the center of everything we do. With national reach, committed teams and proven expertise, we can connect you and go beyond your expectations.

We invite you to join us as we turn the promise of digital technology into progress.



Proposed services – features and benefits



Certain features subject to availability. Please consult with your sales representative for details.



New and revised services and monthly charges at: 181 Town Park Rd , Monticello NY 12701

Product	Quantity	Sales price	Contract term	Monthly price
ENT-SBPP Voice Unlimited Local & LD (Bundle) #250	1	\$29.99	Month to Month	\$29.99
Spectrum Business Internet 1G w/ WiFi (Bundle Persistent) - Includes Discount	1	\$189.99	Month to Month	\$189.99
Total*:			\$219.98	
*Prices do not include taxes, surcharges, and/or fees				

New and revised services and monthly charges at: 181 Town Park Rd Unit Shop, Monticello NY 12701

Product	Quantity	Sales price	Contract term	Monthly price
Spectrum Business Internet Ultra w/ WiFi (Non Gig Market) (Bundle Persis) - Includes Discount	1	\$147.98	Month to Month	\$147.98
Total*:			\$147.98	
*Prices do not include taxes, surcharges, and/or fees				

One-time charges at: 181 Town Park Rd , Monticello NY 12701

Product	Quantity	Sales price	Price
ENT-Construction Fee	1	30000	30000
ENT-1G Installation - Double Play	1	99.5	99.5
CH-New Internet Install - Double Play	1	-99.5	-99.5
CH-New Voice Install - Double Play Discount	1	-49.5	-49.5
ENT-Spectrum Business Voice Installation - Double Play	1	49.5	49.5
Total*:		\$30,000.00	
*Prices do not include taxes, surcharges, and/or fees			

One-time charges at: 181 Town Park Rd Unit Shop, Monticello NY 12701

Product	Quantity	Sales price	Price
ENT-Spectrum Business Internet Installation - Single Play	1	99	99
Total*:		\$99.00	
*Prices do not include taxes, surcharges, and/or fees			



Summary

Spectrum Enterprise is fully committed to providing you with the solutions that are right for your unique needs, and delivering a seamless experience through installation and beyond. From our exceptionally reliable, scalable fiber technology solutions to our highly skilled and certified team, we are well-positioned to help you meet your needs not only today, but in the future as your business evolves.

We look forward to helping your company achieve its full potential by not only providing you with the right digital infrastructure, but by establishing a long-term partnership that delivers support and expertise you can count on.

THE SPECIFICATIONS AND INFORMATION REGARDING THE SERVICES IN THIS DOCUMENT ARE SUBJECT TO CHANGE WITHOUT NOTICE. ALL STATEMENTS, INFORMATION, AND RECOMMENDATIONS IN THIS DOCUMENT ARE BELIEVED TO BE ACCURATE BUT ARE PRESENTED WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. USERS MUST TAKE FULL RESPONSIBILITY FOR THEIR APPLICATION OF ANY SERVICES.

Third party trademarks are the property of their respective owners.



Spectrum Enterprise services*			
Fiber Internet Access	<p>Leverage the power of fiber</p> <p>Dedicated fiber connection, not shared, for consistent performance with symmetrical bandwidth where downloads and uploads are equally as fast.</p>	<p>Ensure reliable performance</p> <p>High performance and availability for your mission-critical applications is assured by a competitive service level agreement (SLA).</p>	<p>Meet your growth needs</p> <p>Speeds are easily scalable to meet your evolving business needs.</p>
Wireless Internet Backup	<p>Seamless and secure connection</p> <p>In the event of a network or power interruption, we provide seamless, automatic failover and failback to an encrypted 4G wireless signal. This ensures there are no internet service disruptions so your organization can remain productive.</p>	<p>End-to-end service and support</p> <p>Wireless Internet Backup includes everything your organization needs, including wireless hardware and battery backup, at no additional cost to you. We also manage the service for you, starting from installation, and we provide 24/7/365 U.S.-based support.</p>	<p>Cost-effective wireless backup</p> <p>Wireless Internet Backup has unlimited data and no overage fees, enabling you to wirelessly connect as long as you need to without impacting your budget.</p>
Wireless Internet	<p>Internet access</p> <p>Provide connectivity for point-of-sale systems, network equipment management, WAN integration and more.</p>	<p>Business continuity</p> <p>Gain peace of mind knowing that your organization will continue to operate through an interruption when configured as an alternate connection or backup.</p>	<p>Rapid installation</p> <p>Quickly deploy internet access to any of your locations, including rural, remote and hard-to-reach sites.</p>
Ethernet	<p>Assure network performance</p> <p>Our competitive service level agreement (SLA) exceeds industry specifications and ensures the network is meeting performance objectives.</p>	<p>Connect your locations</p> <p>Ethernet can cost effectively connect your locations with secure, point-to-point, point-to-multi-point, or multi-point-to-multi-point topologies.</p>	<p>Scale your network</p> <p>Quickly increase bandwidth to meet changing business requirements.</p>
Cloud Connect	<p>Improve performance</p> <p>Access to public clouds is faster and more consistent with high performance, service level agreement (SLA)-backed, dedicated connectivity.</p>	<p>Reduce risk</p> <p>Private connectivity protects against disruptive intrusions and malicious attacks.</p>	<p>Simplify cloud connectivity</p> <p>Easily link multiple cloud environments to any network resource.</p>

<p>Managed SD-WAN</p>	<p>Adapt to different workloads</p> <p>Application-aware, intelligent routing steers and prioritizes traffic, maximizing network performance so that applications and different workloads get the performance, reliability and security necessary.</p>	<p>Improve insight and control</p> <p>A centralized approach to network management through an intuitive portal providing real-time insight into network performance, traffic and utilization. Access tools to create or adjust network performance parameters based on the needs of each location.</p>	<p>Enable configurability</p> <p>Utilize a wide range of configurations to meet your needs such as all IP/Layer 3, Layer 2 over IP or a hybrid SD-WAN integrated with a native Layer 2 Ethernet network.</p>
<p>Wavelength Services</p>	<p>A smart, cost-effective option for high-capacity requirements</p> <p>Consider Wavelength Services if you're in search of very high transport speeds — but not the cost and complexity of owning and operating dedicated network infrastructure. It efficiently converges network services, including WAN and Internet access, while keeping capital expenses to a minimum.</p>	<p>Keep your most valuable data secure</p> <p>Wavelength Services provides a non-shared, point-to-point circuit for connecting locations. Traffic passes seamlessly across the network, separated from other data streams and encapsulated inside a wavelength frequency.</p>	<p>Speeds designed to power productivity</p> <p>Delivering speeds up to 100 Gbps, Wavelength Services offer more bandwidth and low-latency data transmission without handling frames or packets, providing the data-intensive transport your organization needs to run critical business applications.</p>
<p>Managed WiFi</p>	<p>Enable scalability</p> <p>Leverage the high-speed connectivity of our Internet service and allocate the appropriate bandwidth to support different usage needs at one location or across a large campus environment.</p>	<p>Manage end-to-end WiFi</p> <p>Simplify local network infrastructure and minimize administration effort with industry experts to install, manage and maintain WiFi infrastructure and online portals to view WiFi performance.</p>	<p>Ensure network performance</p> <p>A highly competitive service level objective (SLO) helps ensure optimal network performance and availability to support mission-critical wireless operations.</p>
<p>Managed Router Service</p>	<p>Ensure network continuity</p> <p>Gain insight into network performance and improve reliability and uptime of WAN connections with up-to-date equipment that identifies and corrects issues.</p>	<p>Enable a connected solution</p> <p>Bundle Managed Router Service with Business Internet or Ethernet for a turn-key solution delivered over a fiber-rich network.</p>	<p>Enhance productivity</p> <p>Free up your IT staff to work on more strategic initiatives and offload network support requirements.</p>
<p>Managed Security Service</p>	<p>Maintain up-to-date security</p> <p>Managed Security Service integrates security and firewall solutions. We handle all the software updates and install the latest security patches, so you don't have to.</p>	<p>Support regulatory compliance</p> <p>To be compliant with federal mandates — including HIPAA, CIPA and PCI-DSS — you must have secure firewall connections that block external access. We provide that support and maintain detailed log tracking of events and resolutions that many mandates require.</p>	<p>Connect remote users and locations</p> <p>When you're faced with different network solutions spread across multiple groups and locations, our fully managed service helps you streamline your operations and standardize your protection and VPN across all U.S. locations.</p>

<p>DDoS Protection</p>	<p>Comprehensive traffic evaluation</p> <p>Proprietary machine learning and advanced analytics, powered by NETSCOUT's Arbor platform, identify anomalies in traffic flows at each of your locations to quickly mitigate attacks before they can negatively impact your organization.</p>	<p>Faster detection and resolution</p> <p>Offered with our Fiber Internet Access services, DDoS Protection quickly detects, redirects and mitigates any malicious traffic and minimizes the impacts of a DDoS attack, ensuring the availability of your network assets.</p>	<p>Continuous support</p> <p>We provide a single source of support for fast and easy resolution. Our network operations center is equipped with experts and resources to ensure mitigation and support during an attack. You also have online access to incident reports that include event mitigation details, countermeasures deployed, IP addresses impacted, configuration settings and more.</p>
<p>Enterprise Trunking</p>	<p>Choose what works for you</p> <p>We're able to meet your ever-changing requirements by supporting your preferred trunk interface and handling both centralized or decentralized configurations. Also, our flexible service lets you scale as needed by adding more capacity, minutes of use or other advanced features.</p>	<p>Rely on a dedicated partner</p> <p>Enterprise Trunking is delivered over our private fiber network. We proactively monitor our network 24/7/365, giving you confidence that your dedicated connection is available and performing at the highest level.</p>	<p>Do business with ease</p> <p>One monthly transaction delivers everything you need—the connection, bandwidth, DID numbers and long distance plans.</p>
<p>Unified Communications (UC) with Webex</p>	<p>Have confidence in a highly reliable service</p> <p>Gain peace of mind in knowing that your cloud-based UC services are always available. By using a dedicated connection on our private, secure, fiber-based network, you'll receive both reliable service and the highest level of voice quality.</p>	<p>One number to make your life easier</p> <p>We design, install and maintain your UC service. Our service-level agreement provides 99.99 percent service availability — all the way to the IP desktop phone. Our 611 feature can be used from any UC phone, giving instant access to U.S.-based technical support representatives 24/7/365 at no extra charge.</p>	<p>Equip your teams with a powerful, flexible suite of collaboration tools</p> <p>Your people can communicate how they want, on the devices they choose, through a range of cloud-based services. Additionally, our UC solution integrates with popular tools such as client relationship management (CRM) applications. Integration maximizes solution adoption, provides a better user experience and enhances functionality.</p>
<p>Hosted Call Center</p>	<p>Ensure clear, reliable service</p> <p>Experience clear voice quality and improved security from service delivered via a dedicated and secure connection over our privately owned and operated fiber network.</p>	<p>Customize your call center</p> <p>Improve call center operations and derive business insights with advanced call monitoring and call analytics software engineered specifically for call center supervisors.</p>	<p>Decrease management time</p> <p>Free IT staff to focus on higher business priorities instead of daily call center management and ensure you have the latest technology through automatic updates.</p>



<p>Enterprise TV</p>	<p>Provide preferred programs</p> <p>Create an exceptional HDTV viewing experience with access to over 200 core and premium channels your viewers want, at a great value, featuring entertainment, news, sports and international programming.</p>	<p>Choose your service</p> <p>Select the delivery platform that provides the features your viewers want and the performance you need, all within your budget.</p>	<p>Count on reliable TV</p> <p>Ensure viewers are entertained and informed with highly reliable delivery that is not susceptible to weather-related disruptions.</p>
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***Certain features subject to availability. Please consult your sales representative for details.**

All rights reserved. Not all products, pricing and services are available in all areas. Pricing and actual speeds may vary. Restrictions may apply. Subject to change without notice.



#2

Jamie Vandervoort

Teach Zumba Fitness and Zumba Toning.

Tuesdays will be all Zumba

Thursday will be Zumba & Zumba Toning.

Class will begin at 5:30pm

Each class is 60 minutes. \$30/class \$540.00
Total

On Thursdays attendees can bring their own weights-optional. 1-3 lbs only.

Also, attendees should bring water

Classes will begin 7/7/22

Last class 9/13/22

Class dates are:

7/7,7/12,7/14,7/19,7/26,7/28,8/2,8/4,8/9,
8/11,8/16,8/23,8/25,8/30,9/1,9/6,9/8,9/13

No class on: 7/21/22, 8/18/22

FP FORESTBURGH PLAYHOUSE

39 Forestburgh Road • Forestburgh, NY 12777 • 845-794-1194 • www.FBPlayhouse.org • boxoffice@fbplayhouse.org

2022 Group Contract – Customer Copy

Contract Date: 06/30/2022

Name of Show	<i>Alice in Wonderland</i>	<p>A non-refundable deposit of \$100.00 must be received by the Playhouse Box Office fourteen days after contact before tickets will be reserved.</p> <p>The organization will be charged for the last count of participants received by the Playhouse Box Office fourteen days before the performance date. <i>Payment is also due at that time.</i></p> <p>Tickets to be picked up at the Playhouse Box Office one hour prior to the performance.</p>
Date/Time	07/21/2022 11:00AM	
Group Leader	Jamie Ferriero	
Group Leader Acct	GRP0396	
Group Name	Town of Thompson YMCA	
Street		
City, State, Zip		
Phone	570-479-0396 jferriero@townofthompson.com	
Number of Show Tickets	219	
Number of Comps	+ 11	
Total Tickets Reserved	230	
Total Due <u>219</u> Paid Tickets X <u>\$12.00</u> Price = \$2628.00		

Please sign both copies of this contract. Keep one for your records and return the other copy with your non-refundable deposit check of \$100 made payable to The Forestburgh Playhouse.

Authorized Signature for Forestburgh Playhouse

Authorized Signature for Group

Comments: Show begins at 11 AM. Please arrive no later than 10:15. Groups begin seating promptly 10:30 AM. 1 complimentary ticket per every 20 purchased. Enjoy autographs from the cast after the show in our awards winning gardens! Thank you!

Please Keep This Copy for Your Records

#4

Town of Thompson

Town Hall
4052 State Route 42
Monticello, NY 12701

Water and Sewer Department

Phone: (845) 794-5280

Fax: (845) 794-2777

Email: waterandsewer@townofthompson.com

Michael Messenger, Superintendent
Keith Rieber, Assistant Superintendent

BILLS OVER \$2500.00

We are requesting permission to pay the following:

VENDOR: Slack Chemical

DESCRIPTION: Stern PAC

AMOUNT: \$ 2,811.25

Sole Source



CHEMICAL COMPANY Incorporated

465 South Clinton St., P.O. Box 30
 Carthage, NY 13619-0030 USA
 Federal I.D. # 15-0503203



Customer Number	
4778	
Invoice Date	Invoice Number
6/6/2022	439422
Due Date	BL Number
7/6/2022	437159

ISO 9001:2015

Phone: (315) 493-0430 Fax: (315) 493-3931

INVOICE

Sold To:

**Thompson Town
 128 Rock Ridge Dr
 Only 1 product per invoice
 Monticello, NY 12701
 Email Invoices
 Tel. No. 845-794-5280 , Fax No. 845-794-2777

Ship To:

**Emerald Green Sewer
 158 Lake Louise Marie Rd
 Rock Hill, NY 12775

Ship Date	Ship Via	Payment Terms	Purchase Order Number	SLS	
6/6/2022	Slack JN	NET 30	Email Keith	075	
QTY Shipped	Packaging	Total Quantity	Product	Unit Price	Amount
7	55 G DRUM-SP	385 G	SternPAC	6.2500 / G	2,406.25
				Merchandise SubTotal	2,406.25
				Delivery Charge	50.00
				Total Container Deposit	315.00
				Pallets Shipped: 2	40.00
				Total Invoice	2,811.25
Tax Exempt: 14-6002141					

Please Remit Payment To: **Slack Chemical Company, Inc. · P.O. Box 30 · Carthage, NY · 13619**

All past due invoices are subject to FINANCE CHARGE of 1.5% per month (ANNUAL PERCENTAGE RATE OF 18%)

#4

Town of Thompson

Town Hall
4052 State Route 42
Monticello, NY 12701

Water and Sewer Department

Phone: (845) 794-5280

Fax: (845) 794-2777

Email: waterandsewer@townofthompson.com

Michael Messenger, Superintendent
Keith Rieber, Assistant Superintendent

BILLS OVER \$2500.00

We are requesting permission to pay the following:

VENDOR: CRITEX LLC

DESCRIPTION: MR. MANHOLE SUPPLIES FOR Consolidated
Kiamesha

AMOUNT: \$6,528.42

* Sole source *



CRITEX LLC.
 125 S Canal St
 Delphos, OH 45833

Invoice

DATE	INVOICE #
6/14/2022	INV-3693
TERMS	DUE DATE
Due on receipt	7/1/2022
SALES REP	CUSTOMER PO
Trip Davis	Kiamesha
SHIP DATE	6/14/2022

BILL TO
Keith Rieber Town of Thompson 128 Rock Ridge Drive Monticello, NY 12701 USA

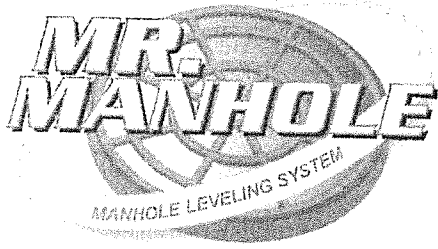
SHIP TO
Keith Rieber Town of Thompson 128 Rock Ridge Drive Monticello, NY 12701 USA kriebler@townofthompson.com

Item	Description	Qty	Rate	Amt
P-MM0160	PULL PIN - LOCKING W/T-HANDLE 3/8 IN. (USED ON SPEEDPLATES)	1	\$58.00	\$58.00
P-MM0026	CARBIDE TOOTH AND ROLL PIN	24	\$24.79	\$594.96
P-MM0038	3/4" x 7" CLEAR ZINC HITCH PIN WITH LYNCH PIN ATTACHED	1	\$29.00	\$29.00
P-MM0025	TEETH RECEIVER STRIP	2	\$81.00	\$162.00
P-MM0056	HANGER SHORT - STANDARD 1ST & 2ND EDITION AND XL SPEEDPLATE	4	\$25.95	\$103.80
P-MM0051	KEYHOLE WEAR BLOCK	2	\$107.75	\$215.50
P-MM0055	RUBBER DAMPER PAD- STANDARD SPEEDPLATE 1ST & 2ND EDITION AND XL	4	\$9.75	\$39.00
A-MM0333	27" MATERIAL PACKAGE (MATERIALS FOR APPROX. 20 MANHOLES)	1	\$3,550.00	\$3,550.00

P-MM0316	RE-BAR RINGS (40) IN A BUNDLE	1	\$1,023.85	\$1,023.85
			SUBTOTAL	\$5,776.11
			SHIPPING	\$752.31
			DISCOUNT	\$0.00
			TAX	\$0.00
			TOTAL	\$6,528.42
			PAYMENTS	\$0.00
			BALANCE	\$6,528.42

Keith ordered parts --- Customer PO: Kiamesha

Thank you for your business!



CRITEX LLC.
 125 S Canal St
 Delphos, OH 45833
 4192348818
 INFO@MRMANHOLE.COM
 www.mrmanhole.com

Packing Slip

BILL TO

Keith Rieber
 Town of Thompson
 128 Rock Ridge Drive
 Monticello, NY 12701 USA

SHIP TO

Keith Rieber
 Town of Thompson *WYS Dept.*
 128 Rock Ridge Drive
 Monticello, NY 12701 USA

INVOICE # INV-3693

DATE 06/14/2022

SHIP DATE
 06/14/2022

SHIP VIA
 ECHO

SALES REP
 Trip Davis

ACTIVITY	QTY
P-MM0160 PULL PIN - LOCKING W/T-HANDLE 3/8 IN. (USED ON SPEEDPLATES)	1
P-MM0026 CARBIDE TOOTH AND ROLL PIN	24
P-MM0038 3/4" x 7" CLEAR ZINC HITCH PIN WITH LYNCH PIN ATTACHED	1
P-MM0025 TEETH RECEIVER STRIP	2
P-MM0056 HANGER SHORT - STANDARD 1ST & 2ND EDITION AND XL SPEEDPLATE	4
P-MM0051 KEYHOLE WEAR BLOCK	2
P-MM0055 RUBBER DAMPER PAD- STANDARD SPEEDPLATE 1ST & 2ND EDITION AND XL	4
A-MM0333 27" MATERIAL PACKAGE (MATERIALS FOR APPROX. 20 MANHOLES)	1
P-MM0316 RE-BAR RINGS (40) IN A BUNDLE	1