

TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
May 10, 2022

IN ATTENDANCE: Chairman Richard McClernon  
Jay Mendels  
John Kelly, Jr.  
Paula Kay, Consulting Attorney  
James Carnell, Director of Building/Planning/Zoning

Sean Walker  
Phyllis Perry  
Cindy Ruff, Alternate  
Darren Miller, Alternate  
Laura Eppers, Secretary

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

A motion to approve the April 12, 2022 minutes was made by Jay Mendels and second by John Kelly.

5 in favor, 0 opposed

**APPLICANT: MICHAEL POLESE**

79 Canal Road  
Rock Hill, NY  
S/B/L: 66.-15-2

Applicant is requesting an Area Variance from §250-9 and §250-21B(4) of the Town of Thompson Zoning Code for: (1) One side yard from required 20'-0" to proposed 16'-2" (2) Front yard setback from required 50'-0" to proposed 12'-10" (3) Increasing a non-conforming structure. (4) Combined Side Yard from required 50'-0" to proposed 32'-2". Property is located at 79 Canal Rd Rock Hill, NY. S/B/L: 66.-15-2. In the Zone: RR-2

Proper proof of mailing was submitted.

A Wolf Lake homeowner's association letter of approval was received.

Michael Polese – Looking to make existing house larger so that it will be more comfortable to retire and live in. Looked into building on the lot behind but there are limits. Reality is there is no access, without infringing on the neighbor, and would require drainage and retainage, making it expensive. Jay Mendels – Why is the back left corner missing and not squared off? Michael Polese – To attempt to stay within the setbacks.

No further questions/comments from the Board.

No public comment was made.

Motion to close public comment was made by Jay Mendels and second by Sean Walker.  
5 in favor, 0 opposed

(1) Whether benefit can be achieved by other means feasible to applicant; All voted no

- (2) Undesirable change in neighborhood character or to nearby properties; All voted no
- (3) Whether request is substantial; All vote no
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

A motion to approve all variances as requested was made by John Kelly and seconded by Phyllis Perry.  
5 in favor, 0 opposed

**APPLICANT: JAY KLEINFELD**

70 Crescent Circle  
Rock Hill, NY  
S/B/L: 54.-3-27.7  
Tyler Schmitt, Project Contractor & Larry Cunningham, Project Contractor

Applicant is requesting an Area Variance from §250-7 and §250-21B(4) of the Town of Thompson Zoning Code for: (1) One side yard setback with W/S from required 15' to proposed 8' (2) One side yard setback with W/S required 15' to proposed 7' (3) Combined side yard with W/S from required 40' to proposed 15' (4) Front yard setback with W/S from required 40' to proposed 11' (5) Percent of lot coverage with W/S from required 20% to proposed 37% (6) Increasing a nonconforming. Property is located at 70 Crescent Cir Rock Hill, NY. S/B/L: 54.-3-27.7 In the Zone: SR With Central W/S.

Proper proof of mailing was submitted.

A Lake Louise Marie homeowner's association letter of approval was received.

Tyler Schmitt – We want to add a 10 x 10 addition to the upper deck and a set of stairs down to the lower deck. Jim Carnell – Nothing changed from the last, original application? Tyler Schmitt – No. We just completed the mailing. The one attachment got lost in the mail so we didn't have the certified letters.

No further questions/comments from the Board.

No public comment was made.

Motion to close public comment was made by John Kelly and second by Jay Mendels.  
5 in favor, 0 opposed

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted no
- (2) Undesirable change in neighborhood character or to nearby properties; All voted no
- (3) Whether request is substantial; All vote no
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

A motion to approve all requested variances was made by John Kelly and seconded by Phyllis Perry.

5 in favor, 0 opposed

**APPLICANT: LAURA SMITH**

Hemlock Lane

Monticello, NY

S/B/L: 48.-1-30 & 48.-1-29

Michael Packer, Surveyor

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Single Family lot size w/o W/S from required 40,000 sq.ft. to proposed 35,495 sq.ft. (2) Single Family one side yard setback from required 20' to proposed 15.4' Property is located at Hemlock Ln Monticello, NY. S/B/L: 48.-1-30

In the Zone: SR no central water/sewer

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Single Family one side yard setback from required 20' to proposed 12.5'. Property is located at 29 Hemlock Ln Monticello, NY. S/B/L: 48.-1-29 In the Zone: SR no central water/sewer

Proper proof of mailing was submitted.

Michael Packer – Applicant bought two parcels of land. One has a double wide and the other has a single family dwelling. The property line goes through the dwelling so I propose to move the property line so both houses are split and nothing is going down the middle. In splitting the distances between the two houses, there will only be 15 to 16 feet between the property line and the houses, so we will not have 20 foot setback lines. If we move the lot line it will improve the size of the smaller lot, however, it does not make it to the 40,000 square feet and that would be impossible being we don't have 80,000 square feet to work with. I just took a line and split it between the houses so there is two clean lots and tax bills. It is a win for everybody. The conditions of the area do not change. Jay Mendels – It's not a shared sewer and you will be drilling a well for the second property. Michael Packer – I have to show the existing well, which has an easement to the existing well from the double wide house, but also show where a potential well site would be in case they have to drill a well. Paula Kay – If this Board acts favorably, then they would go back to the Planning Board for approval of the lot improvement.

No further questions/comments from the Board.

Opened discussion to public - S/B/L: 48.-1-30

Ben Richards – I'm the neighbor right next door to the applicant. Is the property going to be used for any other purpose? Laura Smith – It's going to be exactly like it is now. The only thing that will change is the property line on the paperwork. Ben Richards – I was told you were going to make a driveway to the back of the house and my concern is there will be some digging. The prior owner had a bad sewer problem and the sewage would drain down towards my house and into the ditch. They solved the problem but if you are going to do any digging there, you will go right across the sewer lines and might cause the same problem. Laura Smith – I don't plan on doing any digging but I was told I had to show where a proposed driveway could be, just as I had to do with the second well. Ben Richards – I thought the prior owner dug the second well. Laura Smith – Not to my knowledge. Jay Mendels – Is there only one driveway that will service both of the properties with an easement? Michael Packer – As of now there is only one driveway but we had to show

where a second driveway could be because if the property is sold or separate ownership happens, they will need to build the driveway.

No further public comments

A motion to close the public hearing was made by John Kelly and seconded by Jay Mendels.  
5 in favor, 0 opposed

Opened discussion to public - S/B/L: 48.-1-29

No public comment.

Motion to close public the public hearing was made by John Kelley and second by Phyllis Perry.  
5 in favor, 0 opposed

(1) Whether benefit can be achieved by other means feasible to applicant; All voted no

(2) Undesirable change in neighborhood character or to nearby properties; All voted no

(3) Whether request is substantial; All vote no

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

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

A motion to approve request for all variances for 48.-1-30 was made by Phyllis Perry and seconded by Jay Mendels.  
5 in favor, 0 opposed

A motion to approve request for variance for 48.-1-29 was made by Phyllis Perry and seconded by Jay Mendels.  
5 in favor, 0 opposed

**APPLICANT: BORO PARK**

266 Fraser Road  
Monticello, NY  
S/B/L: 9.-1-54

Applicant is requesting an Area Variance from §250-34(D)(6) and §250-21D(2) of the Town of Thompson Zoning Code for: Variance (6) increasing a non-conforming bungalow from required 15% or 200sq ft whichever is greater to proposed 37.7% or 850 sq ft for units 9 & 10. Property is located in the SR without central water/sewer.

Joel Kohn – We are back for units 9 & 10. There was a mistake on the site plan, which actually results in the addition not being as big percentage wise. The deck is shown as a 400 square foot addition, but that included the existing deck. Instead of a 37.7% expansion, it is only a 29.3% expansion, which is still more than the 15%. I did talk to the owner and they are amenable to removing the deck addition taking it back to the original footprint. This will result in a 420 square foot addition, which is only going to be a 17.5% expansion to the building bringing it down to only 2.5% above what is allowed. Jim Carnell – When is it due for the setbacks? Joel Kohn – We got a variance for the setback but this actually makes the setback better, increasing it from 10.7 feet to

20 feet between units 10 and 11. John Kelly – There is some deck there that come to the outside wall correct? Joel Kohn – Right. Chairman McClernon – So it will square off the building? Joel Kohn – It will be just like you see on the front side of unit 9. Chairman McClernon – Is there going to be an engineering site and the Town Building Department will be notified to come out and check? Joel – I can schedule with the Building Department anytime, I just have to make sure all the units are open and I had an engineer out at the demo site, today, to take a look at all the units we discussed the last meeting, and the unit we are discussing tonight. Jay Mendels – I know there was a deadline for when that meeting needed to take place. Joel Kohn – It was for the engineering report within three months of opening and if we couldn't do that, we would come back for an extension and the Building Department needs to come out before the season.

No further questions/comments from the Board.

Item was previously close to the public.

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted no
- (2) Undesirable change in neighborhood character or to nearby properties; All voted no
- (3) Whether request is substantial; All vote no
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

A motion to approve the variance as requested for units 9 & 10 with the same conditions as discussed for the other units was made by Jay Mendels and seconded by John Kelly  
5 in favor, 0 opposed

**APPLICANT: COMPASS POINTE HOLDINGS**

81 Pleasant Street Extension  
Monticello, NY  
S/B/L: 14.-2-10  
Dave Toder, Project Engineer

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for:  
(1) Multiple dwelling acreage from required 10 acres to proposed 2.13 acres (2) Multiple dwelling density per acre from required 2.0 per acre to proposed 2.5 per acre (3) Multiple dwelling front yard setback with W/S from required 40' to proposed 7'-4" (4) Multiple dwelling habitable floor area from required 1,000 sq.ft to proposed 655 sq.ft. (5) Multiple dwelling habitable floor area to required 1,000 sq.ft. to proposed 600 sq.ft. (6) Multiple dwelling habitable floor area from required 1,000 sq.ft. to proposed 700 sq.ft. (7) Multiple dwelling habitable floor area from required 1,000 sq.ft. to proposed 820 sq.ft. Property is located at 81 Pleasant St Ext Monticello, NY. S/B/L: 14.-2-10

Proper proof of mailing was submitted.

Dave Toder – I have some updated drawings (handed them out). There are four units in the large house and one unit in the cottage. This property had been attached to the larger property and subdivided away. This created another front yard on a property that was already a corner lot. One variance is for the cottage to stay in the front yard, though it is quite far from the street. In terms of the apartment size, they will have access to a bunch of common space. Example,

apartment number three, on the second floor, has a very large, private roof deck that is about 530 square feet in addition to the 700 square feet inside the apartment. This is not full credit but possibly some credit in terms of achieving the 1,000 foot goal. Additionally, there is a generous covered front porch, about 420 square feet, which is shared common space for the other apartments. This may also be somewhat mitigating on the apartment size issue. Chairman McClernon – It's a nice amenity but it does not add to the square feet. Paula Kay – Our definition of floor area specifically excludes terraces, unroofed porches and steps so we cannot include that. Dave Toder – The plan shows the porches as common areas so we will leave it as that. The cottage, I'm calling apartment number five, is 655 square feet and was built in the early 1900's so we believe this acceptable. As to the apartments, I have personally been through them and they are very nice. There is a two bedroom apartment that is not 1,000 square, so it wouldn't be allowed in the town, but that's actually quite a valuable size in square footage and cost for tenants. This goes for the one bedroom apartments as well. Chairman McClernon – Looking at this plan, it appears both apartments on the first floor are two bedrooms. Dave Toder – This is one proposed change we want to make to the building. This used to be a group home and this particular bedroom, which is attached to the sunroom in apartment one, was a separate piece. We want to add it onto this apartment changing it from a two bedroom to a three bedroom with a private sunroom, making the apartment over 1,000 square feet and complaint. You can see the square footage of each apartment on the plans. Paula Kay – Was all this work done without a permit? Can you explain that to the board? Dave Toder – This used to be a group home for many years and they put in extra facilities, kitchens and did subdivisions. Not all of these walls were put in by the current owner, who bought the property thinking it was a single family home. The two second floor apartments that are one bedrooms, were already subdivide and had their kitchens. The owner kept that and did some renovations. Then they put a subdividing wall in on the first floor because the large unit was a group home set up with a large living area with an informal stair arrangement. They added the wall, replaced doors and buffed up the kitchens. They are coming to you now as they are not in compliance. Some of it is because it is an old house but a lot of it is because extra apartments were made that didn't have approval. Chairman McClernon – Jim, were the kitchens there when it was last inspection? Jim Carnell – I didn't go into the building so I'm not sure. To the best of my knowledge, it was occupied by an agency that leased it as a group home and as far as we know, the assessor's records are indicated as a single family home. Chairman McClernon – As a group home, would it have been inspected yearly? Jim Carnell – No. because it is a single family home. Jay Mendels – Jim, are multiple dwellings allowed there? Jim Carnell – Yes, they are permitted use. Again, to the best of our knowledge, it is serviced by both central water and sewage. I cannot speak to if anybody in the building department has looked at an extensive plan review to verify that dimensions meet current requirements for kitchens, bathrooms, etc., but I'm pretty sure we wouldn't have wasted a whole lot of time reviewing until it got passed through this Board and/or the Planning Board. There may have to be some alterations to the original square footage to meet minimum standards but we have to go through those steps regardless. This isn't a gut renovation so 100% of current codes wouldn't necessarily apply, safety stuff would but not some of the other codes. Jay Mendels - But that's not for us to decide. Dave Toder – I know they will be and have to put in sprinklers for the four apartments and they have town water so that should help. Chairman McClernon – Do we know how many walls were moved? Jim Carnell – I think they represent that and alterations on some of the plan. Dave Toder – I know they added this wall on the first floor – circled a wall on the plans and held it up for the board to see – and created a unit with a separate entry door. Some of the walls look like they couldn't have been added or moved as that is roughly were they would have originally been. Most of the sizes of the rooms are reasonably good. There is one particularly tight bathroom and some of the bathrooms are kind of laid out funny on the first floor. The second floor units do not need to fully comply with ADA code especially that it was an existing building and it is a stair access. There is only one unit in the building without stair access, along with the cottage. Chairman McClernon – Are these going to be regular apartments or apartments for agency

people? Dave Toder – I believe they already have a talent from New Hope and I believe that is who they intend. Jay Mendels – Doesn't new Hope usually have a resident manager that lives in one of the apartments/on site and would they be taking one of the apartments? Cindy Ruff – Yes, usually. Paula Kay – This is fair market rental and would be a lease, so when that lease expires, they can rent it to anyone at any time for any value. Jim Carnell – I mentioned during our work session that when we modified our code and updated the bulk table in 2017, I believe, the very next permitted use for this zone is row houses and one of the things we did was reduce it because we've had several apartment complexes that come through and for a studio or 1 bedroom, they can be 500 square feet. Maybe a situation like this would warrant us to relook at the zoning because for a multiple dwelling we still require a 1,000 square feet for a unit. Chairman McClernon – That's up to the Town Board to put on their list and look into when they do the whole code over again. We are settled with what they have. Phyllis Perry – My main concern is the size of the bathrooms. They look so small, especially the one in apartment two. The configuration looks really tight. Dave Toder – I can make them look a lot better. With apartment two the bathroom is not a bad size, just the shower is too large. If that is a sticking point, you could make that a condition and we would renovate that bathroom and make it a little bigger. Jim Carnell – With that thought process in mind, if there is indeed some efficient spaces for square footage and door swing or accessibility, is it feasible to do an alteration to the individual units without changing the square footages? So if the Board did act on the actual square footage that you are requesting, you can still accommodate. Dave Toder – If that make the Board more comfortable, I am confident my clients would be happy to renovate. There's also a bathroom in apartment one that looks like two closets, but if we break down the wall you have a real bathroom. I would like to propose those two first floor bathrooms to be renovated, in the same square footage, to make them better. Chairman McClernon – Is there any living space on the third floor? Dave Toder – No, it is a short attic in a broad building. The space is inhabitable and is pretty poor storage space as well. Paula Kay – It would count towards your square footage. Dave Toder – It's inhabitable and not 7 1/2 feet tall. It would only be beneficial as storage for that apartment. Chairman McClernon – Is it gas stoves and things? Dave Toder – I don't know the answer to that question. I have photos of the new kitchens and they might be electric induction because those can be safer. Cindy Ruff – Were they changed/updated? Dave Toder – The kitchens were completely renovated. I only saw the upstairs kitchens and they were small but nice. One was moved to another side of the room for better placement. They didn't really renovate the bathrooms, but they will. There is a basement so shifting figures/plumbing should be simple. Chairman McClernon – The current owners have done renovations/additions on other properties and should have known that they need permits and inspections so I feel like they tried to sneak this one in and it blows my mind. Jay Mendels – Everything would be reviewed by the building department, right? Jim Carnell – They are currently in front of the Planning Board for the site plan review which resulted in the having to come in front of this Board. Chairman McClernon – The thing is you don't know what is behind walls. Jim Carnell – We can see behind the walls. We have cameras and so does their engineer. If camera documentation cannot be provided, we can open up the walls. Jay Mendels – Paula, do you know if there are going to be any fines for not getting the permits. Paula Kay – Not a fine, but they will pay a building without permit fee for each documented case and the building department will determine that. They will also have to pay for the building permits.

No further questions/comments from the Board.

Opened discussion to public.

There was no public comment.

A motion to close the public hearing was made by Joh Kelly and seconded by Jay Mendels.  
5 in favor, 0 opposed

(1) Whether benefit can be achieved by other means feasible to applicant; Sean Walker and John Kelly voted No. Chairman McClernon, Jay Mendels and Phyllis Perry voted yes – If they would have gotten a building permit, the square footage issue could have been avoided by making three apartments, instead of four in the building.

(2) Undesirable change in neighborhood character or to nearby properties; All voted no

(3) Whether request is substantial; Sean Walker voted no, Chairman McClernon, Phyllis Perry, John Kelly and Jay Mendels voted yes – The cottage was built a number of years ago, so I would exempt that and I would say it is a substantial for the three apartments in the main building.

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

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

A motion to approve the first three variances as requested was made by Phyllis Perry and seconded by Sean Walker.

5 in favor, 0 opposed

A motion to approve the cottage variance as requested was made by Phyllis Perry and second by Jay Mendels.

5 in favor, 0 opposed

A motion to approve the final three variances as requested was made by Jay Mendels and second by Sean Walker.

4 in favor, 1 opposed

A motion to close the meeting was made by Jay Mendels and second by John Kelly.

5 in favor, 0 opposed

Respectfully submitted,

Laura Eppers  
Secretary  
Town of Thompson Zoning Board of Appeals