

TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
December 13, 2022

IN ATTENDANCE: Richard McClernon, Chairman      Cindy Ruff, Alternate  
                          Jay Mendels    Darren Miller, Alternate  
                          John Kelly, Jr.  
                          Sean Walker  
                          Laura Eppers, Secretary  
                          James Carnell, Director of Building/Planning/Zoning

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

A motion to approve the revised October 11, 2022 minutes was made by Jay Mendels and second by John Kelly.  
5 in favor, 0 opposed.

A motion to approve the November 8, 2022 minutes was made by Jay Mendels and second by John Kelly.  
5 in favor, 0 opposed.

Chairman McClernon appointed Cindy Ruff as a voting member for tonight's meeting.

**APPLICANT: SEAN BROOKS**

86 Sacks Road  
Harris, NY  
S/B/L: 1.-1-74  
Bruce Reynolds, Property representative

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) Warehouse lot area from required 40,000 square feet to proposed 37,193 square feet (2) One side yard setback from required 35' to proposed 25.9'. Property is located at 86 Sacks Road, Harris, NY. S/B/L: 1.-1-74. In the Zone: SR  
and

Applicant is requesting a Use Variance from §250-8 of the Town of Thompson Zoning Code for (1) Use as a warehouse which is not permitted in the Suburban Residential zone per 250-7. Property is located at 86 Sacks Road, Harris, NY. S/B/L: 1.-1-74. In the Zone: SR

Chairman McClernon read both legal notices out loud.

Bruce Reynolds – As a realtor, I use a certain tax program, which told me this property is 1 acre and as a requirement for your variance, we had a survey done, which found that the property is actually less than 1 acre. This causing the need for a variance. Then, when I asked the surveyor to put the building onto the map, I thought he realized the side yard setbacks and would put the building within them, but he didn't which created the need for the second area variance.

There is plenty of room to slide the building over to prevent that variance. I went ahead and had him make that change and I have a copy of that survey to present tonight. With this being done, I would think the second variance would be eliminated. Chairman McClernon – That would definitely eliminate it. Unless there was something with the land preventing it. Bruce Reynolds – No, there is nothing there preventing it. Chairman McClernon – It is a pretty flat piece of property. Bruce Reynolds – Sean is willing to clean up the property and do everything that the Building Dept. or Planning Board would require. Chairman McClernon – If you heard the decision we had in our work session, the Town has been after him for 10 years now to clean up that property. He has open violations and everything else. Bruce Reynolds – I wasn't aware of that. Are there any restrictions you can do if you grant the variance? Chairman McClernon – Yes, but that isn't going to make any difference. If he isn't going to listen to the violations and settle them, why would he follow any restrictions we would put on the property. There is a problem with all of the outside storage and I was up there once over the summer and there were roll-off dumpsters from OTD filled with construction debris. Bruce Reynolds – That is not allowed? Chairman McClernon – No. Plus, all the other tankers and stuff he has stored there. Bruce Reynolds – We thought if he could get approval for this, it would be a way to clean it up. Chairman McClernon – Well, the way to clean it up is not to use it as a dumping site. Bruce Reynolds – He's not dumping there. Chairman McClernon – He is dumping all of his junk there for periods of time. Bruce Reynolds – I think he only has vehicles there and I saw some containers there. I think I sent some pictures in showing them. Chairman McClernon – Yeah and those are the roll-offs I am talking about and I was up there about a month or so ago and there were at least 5 tankers there as well. Bruce Reynolds – What is legal and not legal on this property? Chairman McClernon – He can have a 1-family, a 2-family or a daycare center. Bruce Reynolds – I mean as far as vehicles. Chairman McClernon – Nothing. Jim Carnell – There was a single-family home on the property that was demolished and removed just prior to Sean purchasing the land. Bruce Reynolds – So there's no way for him to get approvals for this? Jim Carnell – He has had violations on this property since 2014. Paula Kay – What I am hearing is, he needs to take some action before this Board will even consider taking some action. Chairman McClernon – Well, the first thing is the use permit. I mean, if the use permit doesn't go through... Jay Mendels – Then there is no since in looking at the other application. Paula Kay – What I am saying is, it sounds like you guys are saying that Mr. Brooks has to do some work on the road and clean up what the Town has been asking him to do for years before you are really interested in giving him a variance for anything. Chairman McClernon – Yes. Jim Carnell – I'm not sure exactly how familiar you are with this, but Mr. Brooks has attempted to either come to this Board or the Town Board in the past to request a zone change, but due to the on-going violations, the Town Board wasn't even willing to entertain it going to the Planning Board. The last time I believe was in 2014 or 2015 and he had legal representation. Bruce Reynolds – I didn't know that either. Chairman McClernon – The use permit is the big thing here. Do you have the information for getting the use variance? Bruce Reynolds – Meaning what? Chairman McClernon – There are certain criteria for the use variance that has to be met. Paula Kay – Do we need to go through that or did you want to send Bruce to see if he could get the property cleaned up first? Chairman McClernon – It has to be cleaned up either way, but my feeling is it's never going to pass the use variance to start with. Paula Kay – You mean the criteria for it? Chairman McClernon – Yes. Paula Kay – Okay. Chairman McClernon – You are supposed to have financials showing that he can't get a reasonable return for the property, which is just a vacant lot, and things like that. We need to see financials and if the hardship is unique in the district and if the variance is essential to the appearance of the neighborhood. Jim Carnell – I think the criteria is listed on the application. Bruce Reynolds – I don't see that on your application. Jay Mendels – The use criteria? Bruce Reynolds – Yes. Jim Carnell – Here, let me show you the criteria the Board has to go over. Bruce

Reynolds – Can I take a picture of that card? Jim Carnell – Sure. Chairman McClernon – Is it our fault because it's not on the application? Paula Kay – No, we have it somewhere, I think on the website. Bruce Reynolds – So, what do you recommend? Just let it go? You might be able to get him to clean it up. Chairman McClernon – Well, that's something he has to do anyway. Bruce Reynolds – He hasn't so far. Chairman McClernon – Hopefully we have a judge now that will make him start paying fines. What do you think Paula? Paula Kay – I think Bruce is definitely hearing you that it doesn't make sense for you to go ahead and make a determination at this time. Bruce, maybe you can get through to Sean and maybe he can show that he is willing to work with the Town, after all of these years, and clean up, and then you would have to put together a real packet for the use variance. Bruce Reynolds – What would you request I get from Sean? Do you just need a letter stating what he agrees to do? Paula Kay – He would actually have to do it, not just a letter stating he will, and what the Chairman is talking about is showing financials for the use variance. You will have to look at all the allowed uses in the zone and then show why Sean can't make the property work finically under any of those uses and needs the use he is proposing. This is a very hard hurdle. Bruce Reynolds – Okay. Chairman McClernon – Plus the unsatisfactory appears in the neighborhood; a warehouse in a residential setting. It changes the character of the neighborhood and personally, for me, that's not going to fly. But I don't know about the other Board members. Bruce Reynolds – I think the goal is to try to get him to clean it up. Chairman McClernon – Well, the courts will do that eventually. Paula, what's the best course of action here. Paula Kay – What I was saying is, unless the applicant really wants you to take action, I think Bruce understands what it is. Chairman McClernon – Should they repeal the request? Paula Kay – He doesn't need to formally do that. Chairman McClernon – Okay.

No further comment from the Board.

**APPLICANT: MICHAEL & SEBASTIANO GATTA**

Big Woods Road

Harris, NY

S/B/L: 1.-1-65

Michael Gatta, Property owner

Sebastiano Gatta, Property owner

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) A box trailer used for as an accessory structure/shed – not permitted (2) Accessory structure without a primary structure – no primary structure. Property is located at Big Woods Road, Harris, NY. S/B/L: 1.-1-65. In the Zone: SR no central water/sewer

Chairman McClernon read the legal notice out loud.

Chairman McClernon – You may have heard us speaking about this in our work session and our first questions is, what is the purpose of the trailer? Sebastiano Gatta – We live in Long Island and it is useful to have a place to be able to store hand tools, our ATV and other personal belongings we want to protect. We spend the weekends up here and use the trailer to keep belonging we don't travel back and forth with safe. I know this does pertain to this, but since we purchased the property, we do whatever we can to clean up the property and keep the property clean of garbage. We've taken loads of tires and garbage off of the property. We didn't mean to cause any issues and didn't realize that the trailer was

not allow, but it is a great help for us to be able have the trailer there. Chairman McClernon – Down in Long Island, if you wanted to put this trailer or shed on your property, would you have to get a permit? Michael Gatta – Not for a shed. Sebastiano Gatta – As long as there is no foundation, we don't need one. If foundation is being poured, then we need one. Chairman McClernon – Up here is different and you would need a permit. Paula Kay – I don't know that is correct and one may be needed down there as well. Jim Carnell – Yeah, I think anything over 144 square feet requires a permit, by state and possible international code. Sebastiano Gatta – We never knew that. Jay Mendels – If there is no house on the property, where do you stay when you are up here? Sebastiano Gatta – A hotel in Liberty. Jay Mendels – Are there plans to build a house? Sebastiano Gatta – Not at this time for financial reasons. Hopefully in the future we can purchase a house to put there. Jay Mendels – So, what do you use it for? Michael Gatta – Mostly for hunting. Paula Kay – Is there a slab? Sebastiano Gatta – No. It's just a trailer on wheels and it is registered. Sean Walker – How big is the lot? Michael Gatta – 49 acres. Chairman McClernon – Yeah, it's a pretty big piece of property. Sean Walker – It looks like the trailer is right on the road. Michael Gatta – It's about 30 feet or more off of the road. Jay Mendels – They could build a small hunting cabin. Paula Kay – They could. Chairman McClernon – That is a legal option. Jim Carnell – Because you have more than 10 acres, under our code, you would be permitted to put a small 20x20 hunting cabin with a permit. Then you would be able to have an accessory dwelling on the property that you can store your ATV's in. Jay Mendels – But not a box trailer. Chairman McClernon – Correct. You would have to build a shed or something. Michael Gatta – Even though the trailer is on wheels? Chairman McClernon – Yes. Michael Gatta – It doesn't matter as long as it is a trailer? Chairman McClernon – Right. You can not use a trailer for storage. Michael Gatta – We under the assumption that as long as it wasn't permanent, we could have it. That's why we left it on wheels, so it could be moved at any time. Chairman McClernon – No and that is why the Town stopped them from being allowed because what was happen years ago is people weren't taking them off and the wheels were rotting out on them. Paula Kay – I think Jim gave you a really good solution. You can build a hunting cabin. Michael Gatta – Okay. Jim Carnell – It can be seasonal and heated with a wood stove. You wouldn't even have to comply with the energy code if you do it quickly because that is changing soon. NY state is adapting a new energy code banning anything that is not electric. Sebastiano Gatta – There is nothing else we can do? We don't care if the taxes go up. Paula Kay – This Board has nothing to do with taxes and they don't look at anything in regards to the value of the property. They strictly look at the use of the property. Chairman McClernon – A few months ago we had a similar situation to yours and the person had to move the trailer after putting it in because it is not allowed and he didn't go see about getting a permit first. If he would have, he would have been told that he could build a shed instead. Jay Mendels – In his case that was an option because there is a house on the property. Michael Gatta - So how does this work? Chairman McClernon – I'm afraid you are going to have to remove the box trailer. Sebastiano Gatta – Okay. How long to we have to move it? Chairman McClernon – Well, we are due to get 9 inches of snow this Thursday, so you might need a snow plow. I think we usually give 30 days. Sebastiano Gatta – Can we have a big extension? Just because of the hassle it would be to get a truck up here and safely move it in the snow. Jay Mendels – What are you proposing? Michael Gatta – Honestly the main issue is finding where we are going to put it. Chairman McClernon – Oh, so you bought it. Michael Gatta – Yes and we spent a decent amount of money on this trailer. We live on a small 80-foot lot in Nassau County, so we are not sure where to put it now. Chairman McClernon – What is a reasonable time frame? Spring? April? Michael Gatta – Yes, that would be great and help a lot. Chairman McClernon – Does anyone have an issue with that? Jay Mendels – No. That way it's there for the winter and it would be hard to move it anyways. Sean Walker – Yeah and then it gives them time to find a place to put it. Paula Kay – The April meeting is on the 14<sup>th</sup> for this Board, so maybe it should be done before then. Chairman McClernon – Lets do the May meeting, incase there is still snow in April. Sean Walker – And the ground may still be soft in April. Paula Kay – The May meeting is May 10<sup>th</sup>, so you would have to May 9<sup>th</sup> to

remove the trailer. If you cannot do so by then, you will have to come back to this Board. Michael Gatta - Okay. Jay Mendels – We still need to open this up to the public for any comments, right? Paula Kay – Yes.

No further comment from the Board.

Meeting was opened to the public.

No public comment.

A motion to close the public hearing 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 yes
- (2) Undesirable change in neighborhood character or to nearby properties; All voted yes
- (3) Whether request is substantial; All voted yes
- (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 disapprove all requested variances was made by John Kelly and second by Cindy Ruff. 5 in favor, 0 opposed.

**APPLICANT: JONATHAN AVILA**

Southwoods Drive  
Monticello, NY  
S/B/L: 31.-1-89.2  
Jonathan Avila, Property owner

Proper mailing of the legal notice was not done. The applicant did not realize a mailing list was provided along with the legal notice and only mailed the legal notice to 2 neighbors. Applicant was advised that if he will need to attend next month's meeting, a new legal notice will need to be published and mailed properly and he would be responsible for the \$50.00 fee associated.

**APPLICANT: BREN SALAMON**

205 Starlight Road  
Monticello, NY  
S/B/L: 57.-2-7  
Bren Salamon, Property owner

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) One side yard setback from required 20' to proposed 3.61' (2) Combined side yard setback from required 50'

to proposed 20.93'. Property is located at 205 Starlight Road, Monticello, NY. S/B/L: 57.-2-7. In the Zone: RR-2

Chairman McClernon read the legal notice out loud.

Bren Salamon – We came to this Board for some variances about a year ago and were granted those variances. We then built the house. Nothing has changed physically with the house; it is the exact same size and height that was originally approved. However, my foundation contractor, to be perfectly frank, made a judgment call to pivot the house ever so slightly. So, the front corner that had an approved variance for a set back of 5 feet, has been reduced to 3.1 feet and then the back opposite corner reduced from the approved 18 feet to 17.5 feet. This is the predicament we find ourselves in. I do apologize and take responsibility. Jay Mendels – What was your builders' reason for making the pivot? Bren Salamon – There was a big rocky out cropping, which we had actually discussed pinning into, which was interrupting the frost wall. Again, to be perfectly frank, I think he simply messed up and is telling me it was due to this rocky out cropping. All things considered he did a really good job and I like him personally, but he was off by a couple of inches and a couple inches over the course of 36 feet side to side and 30 feet front to back, set him off about a half of foot when all was said and done. Chairman McClernon – How close are to being done? It looks like it is pretty close. Bren Salamon – It is basically finished. I will be coming up on Friday to do a final walk through, we have our final inspections and of course, all is pending the outcome of this meeting and our new variance requests. Chairman McClernon – Okay. Bren Salamon – And landscaping in the spring. Jay Mendels – Do you remember off hand when the original variances were granted? Bren Salamon – I could look it up to be exact, but it has been about a year and 2 months. Paula Kay – The original disapproval was issued in October of 2020. Jim Carnell – So probably November of 2020. Bren Salamon – Right, that was the disapproval. Paula Kay – So sometime after that. Bren Salamon – Yes, but then we went and designed a whole house. We understood that in order to build anything in place of the house I have had there for years, we had to get a variance, so we just basically put forth a mock plan get the rejection. After that we designed the house and that took some time. Paula Kay – Understood. Bren Salamon – For what its worth, our set back increased from the lake. We were originally approved for 12 feet and ended up 12.5 feet away. Jim Carnell – There are no issues or anything outstanding from the Building Dept. side of it.

No further comment from the Board.

Meeting was opened to the public.

No public comment.

A motion to close the public hearing was made by Jay Mendels and second by John Kelly. 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 voted no
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; 4 voted no and 1 (Jay Mendels) voted yes

A motion to approve the requested variances was made by John Kelly and second by Jay Mendels.  
5 in favor, 0 opposed.

**APPLICANT: 180 WAVERLY AVE LLC**

Waverly Ave.

Monticello, NY

S/B/L: 29.-2-14

Joel Kohn, Property representative

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) Percent of lot coverage from required 10% to proposed 15.7% (2) Combined side yard setbacks from required 50' to proposed 33.6' (3) One side yard setback from required 20' to proposed 7.1' (4) Rear yard setback from required 50' to proposed 33.3'. Property is located at Waverly Ave., Monticello, NY. S/B/L: 29.-2-14. In the Zone: SR

Chairman McClernon read the legal notice out loud.

Joel Kohn – With this project, the current zoning variances being requested are based on the SR zoning district or a lot located outside of water and sewer. This property is now in front of the Town Board for a sewer district extension. It was also subject to the Village of Monticello allowing them to extend the sewer district, which the Village voted on that Wednesday. Now the Town Board has to authorize the Town engineer to do the map, plan, and report, then they can schedule a public hearing and vote on whether or not to allow the extension. This is really just a procedural process. Once this is in the sewer district extension, the percentage of lot coverage allowed will be 20%, bringing it into compliance. One side yard setback will be required to be 15 feet, the rear yard setback will be required to be 40 feet, and the combined side yard setback will be 40 feet or less non-conforming, but we can get to that in a second. One other point I wanted to make here is the property is a .29-acre property or 12,362 square feet and per your zoning chapter 230-21ca, an existing residential lot that is less than the minimum required lot size, if the lot contains at least 60% of the prescribed lot area and is within 75% of all other area/yard requirements of the district, can get a building permit from the Building Dept. without having to come to the Zoning Board. With that being said, once the sewer district extension is done, this lot is essentially 63% of the prescribed lot area. The side yard area will then have to be 11.25 feet and the actual setback we are asking for is 7.1 feet; a reduction of 4 feet. The bold side and rear yard setbacks will be a required 40 feet, which 75% of that will be 30 feet and the actual side yard is 30.6 feet and the rear yard is 33.3, so those will be in compliance. Once everything falls in place with the project, we will only have 1 variance request for the side yard setback from the required 11.25 feet to the requested 7.1 feet. Chairman McClernon – All of that is based on the approval of the sewer extension, which has not been approved yet, so we can not vote on that tonight. Joel Kohn – I get it, I just wanted you to take everything into consideration. Another thing is, if you look at the survey there is a 50-foot or 100-foot NYSEG utility line right along the property line, so nothing will be able to be built close to that. Jim Carnell – Is this a newer survey showing the easement? Joel Kohn – No, this is just a survey of the property. Jim Carnell – Right, but I don't think we have this in the file. Joel Kohn – Laura asked for one and I sent it in. Laura Eppers – We did receive it today and it is now on the Drive. Jim Carnell – Okay and I just want to confirm for all the board members that everything that Joel said is 100% accurate as far as the preexisting, non-conforming lot at 60% for the lot coverage. I'm going to assume Joel's math is right

and as discussed in the work session, if this building had been shifted slightly to fit into the setbacks, they would be able to build it with just a building permit. It's just the one corner of the building prompting the need for a variance. Chairman McClernon – The question is why did they build the foundation without a permit? Joel Kohn – That is a valid question and I do not have an answer for that. Chairman McClernon – Well, from what I understand, it isn't a real foundation as it was just set down on like 4 feet of stone. Joel Kohn – Right, 4 feet of crushed stone. Chairman McClernon – And the contractor says it's easy to move. So, if he moves in within that triangle, then there is no problem. Jay Mendels – Then you wouldn't have to come back here at all. Why bring this up to us now when it's going to be a substantially different request if the extension is approved? Joel Kohn – The reason for that is, the owner would like to get the slab done while waiting for the approval. Jay Mendels – Isn't the slab already down? Chairman McClernon – No, it's just the foundation. Jim Carnell – It's really just a footing on top of a stone trench, per say, or stone base. Its compacted stone brought in that's creating the foundation and the frost protection. Jay Mendels – Understood. Joel Kohn – I mean you have a valid question and why not wait till it is all done and come back for just the 1 variance. Jay Mendels – Or you could just move it and then you don't have to come back at all. Chairman McClernon – Right. Joel Kohn – I'm guessing there is an expense to move it. They would like to get the building up before the summer and if they have to wait for everything to go through, then they won't have it done by summer. Jay Mendels – When do you anticipate this being annexed? Joel Kohn – To me I should be very simple and it shouldn't take more than a couple weeks. It's not more than a day's work for the map land report, but in reality, it takes 3 or 4 months. Paula Kay – Right. Joel Kohn – So, that is the rush. Jay Mendels – Paula, can we make a conditional approval on that happening? Joel Kohn – That's going to be tough because they want to start building tomorrow. Paula Kay – Well, they have already started building. Chairman McClernon – That's the thing, if everyone just followed the rules, then they wouldn't be in this predicament and I'm tired of it. I say move the foundation. If it wasn't built without a permit, then they wouldn't have this problem. Joel Kohn – I get it, but it's not in the Zoning Boards purview to enforce and I don't think you can make decisions based on violations. Chairman McClernon – All we have to do is deny the variance. Joel Kohn - I get it, but there shouldn't be a reason for the denial. Am I correct? Paula Kay – Not exactly. When you go through the criteria and something is already built without a permit, it's something the Board can look at. In this case, you have an unknown here, which is the Town Board still having to act and I believe the application was submitted as if it already has sewer and water. If the Board was to act and act in favor of approving the variance, then it would have to be conditioned on any sort of approval from the Town Board to annex it in. Which means even if they act tonight, favorably, he is still in the same pot until the Town Board acts. In a practical matter it seems to make sense that the applicant moves the foundation and then they can get started right away. Joel Kohn – I do get it, but 2 points I want to make are, I don't think work was started before the application was put in at the Building Dept., so it's not like they waited to get a violation to submit the application. I am not saying what they did is right, but the difference between the Town of Thompson and the Town of Fallsburg is, he would get such a permit in 3 days as where the Town of Thompson takes 4 to 5 weeks to get it. A project is typically not getting review before 3 weeks due to the work load in the Building Dept. Again, I'm not defending the contractor and saying he did it right, I'm just saying the facts are it takes a long time to get a building permit in the Town of Thompson. Longer than other municipalities around. The other thing is, the neighbor provided a letter stating that he did not have any objection to the house being built up to the property line, so there will be no issues from them. Chairman McClernon – Which neighbor was it? The one in the trailer? Joel Kohn – Yes, the neighbor that will have impact. Jim Carnell – Just clarify one more thing, is Waverly LLC the property owner? Joel Kohn – Yes. Jim Carnell – Is the property owner the developer? Joel Kohn – No. Paula Kay – Do we have an owner's proxy? Joel Kohn – Yes. Paula Kay – Okay and to touch on one thing you said, it may take longer in the Town of Thompson, I'm not sure as I have not done an analysis of other building departments, but the law is the law and it



applies equally across the board. If it takes longer, people will just have to plan ahead and it doesn't give someone permission to build without a permit. Joel Kohn – I fully agree with you and like I said, I'm not defending the contractor, I just wanted to explain why they started without a permit. Paula Kay – I understand that, I just needed to put that on record. Chairman McClernon – And because he had applied for a permit, didn't wait for it, and started building without one, it shows he is pretty much is telling the Town he doesn't care. If you're going to apply for a permit and not wait for it, then at least call or come in and see what's going on. Joel Kohn – Oh he did that at least twice a day. Jim Carnell – Joel, can you supply some clarification in regards to the process right now in regards to the annexing? I do recall it being in front of the Town Board and I recall you were waiting on the Village Board to approve it. Did they actually do a resolution approving the attorney and engineer to move forward with the map, plan, and report and have you secured fund with the Town to do so? Joel Kohn – We submitted a request to the Town Board and, as Jim mentioned, we had a meeting and the Town Board authorized the Town attorney to send a letter to me, as representative of the owner, stating that once they submit the funds of \$11,000.00 for the map, plan, reports, and filing, then the Town engineer can get started. That letter was sent to me right after the meeting and the \$11,000.00 check was sent to the Town last week. Hopefully we will be on the next Town Board agenda for that authorization. Jim Carnell – It wasn't in the same resolution for once the funds were received? Joel Kohn – No, they typically do it separately. Jim Carnell – Okay. Joel Kohn – The other part is because that sewer district ultimately goes to the Village's sewer plant, though a municipal agreement between the Town and the Village, the Village has to approve the resolution from the Town. That approval happened last Wednesday at the Village meeting. Jim Carnell – No correspondence or minutes yet? Joel Kohn – No, not yet. Michael Mednick confirmed they received the funds and said to send him the Village minutes once I have them. Jim Carnell – Okay. I just wanted the Board was up to speed on that just in case it weighs in on their decision. Jay Mendels – You have asked us to make a lot of considerations based on this happening and I understand that it may be just a formality, but I think I have to base my decision on what is currently in front of me and being asked on this application. I have no problem with holding off until this actually goes through and then address any variance at that time. That's my opinion. Chairman McClernon – Either that or move the foundation and you can start building once you have a permit. Will the house be on a slab? Joel Kohn – Yes, sort of a slab on grade with full frost protection. Jim Carnell – Typically you would excavate down 4 feet, pour a footing, and then a frost wall on top of that. In this particular case, and several other buildings, they excavate down to the 4-foot level, fill it in with crushed stone, compact that, the footing is placed on top of that, and then pour the slab. So, basically you are eliminating the concrete frost wall, per say, but you are still protecting the structure from frost movement. Joel Kohn – I understand that I am not going to get an approval tonight, unless there are other Board members willing to do so, so can keep this open and come back in 2 or 3 months when everything goes through. Paula Kay – We can do 2 months and see where the Town Board is at that point. Joel Kohn – Okay. Jay Mendels – Does it have to be re-noticed? Paula Kay – No. Chairman McClernon – Is that the February meeting? Paula Kay – Yes, but you want to open and close the public hearing tonight. Jay Mendels – Can we keep it open until they come back? Paula Kay – You can but I don't see why you would as it was fully noticed and there is no one here tonight for the applicant. Joel Kohn – Okay, I will calendar it for February 14<sup>th</sup>.

No further comment from the Board.

Meeting was opened to the public.

No public comment.

A motion to close the public hearing was made by Jay Mendels and second by Sean Walker.  
5 in favor, 0 opposed.

**APPLICANT: RELAKESS, LLC**

8 Feldman Circle

Kiamesha Lake, NY

S/B/L: 6A.-1-11

Joel Kohn, Property representative

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) Maximum residence size from required 60'-0"x60'-0" to proposed 60'-0"x73'-0". Property is located at 8 Feldman Circle, Kiamesha Lake, NY. S/B/L: 6A.-1-11. In the Zone: SR

Chairman McClernon read the legal notice out loud.

Joel Kohn – This is an existing house that the applicant wants to add on to. It's an "L" shaped plan so it is more than the 60' x 60' allowed, it is proposed to be 60' x 73'. In regards to square footage, it is less than the 3,600 square feet allowed, it is proposed to be about 2,780 square feet. Their request is essentially not for the square footage, but to exceed the 60' x 60' dimension. This is a longer property and they want to do the addition this way. Chairman McClernon – What is the size of the addition itself? Joel Kohn – 43' x 21.6'. Jim Carnell – Joel, just to confirm, this is the zero-lot line here that someone would build on from the other lot? Joel Kohn – No, there is no zero-lot line with this project. This is 20 feet from the property line. This is their setback line and there is another property here, which is one of the original lots. Jim Carnell – Okay, that's why I was thinking this was a zero-lot line here. Joel Kohn – It's kind of a busy survey, but this is the lot line and this is the setback line. Chairman McClernon – I see and the lot line goes back here. Jim Carnell – The black hash line is the property line and the red dotted line is the setback line. Joel Kohn – Correct. Jim Carnell – And there is only one on the whole parcel. Joel Kohn – It's a 2-family house. Jim Carnell – No, I mean, this is not a separate parcel. Joel Kohn – No, it's not a separate parcel. Chairman McClernon – Is the existing house a 2-family? Joel Kohn – Yes. Jay Mendels – So, you are adding one more residence to a 2-family home? Joel Kohn – It is not a residence; it is an addition. Jay Mendels – Understood. Cindy Ruff – A 2-story addition? Joel Kohn – Yes. Chairman McClernon – Seems like an awfully big addition. Sean Walker – Agreed; it's massive. Chairman McClernon – Is there a thing about 2-family homes? Jim Carnell – The 2-family is already approved. Chairman McClernon – Okay. Joel Kohn – And it is allowed. I mean they are allowed to have more than a 2-family as well, but that is just a 2-family. Like I mentioned, the square footage of the addition will be less than a 60' x 60' as it is only 2,780 square feet verses the 3,600 square feet. Chairman McClernon – Does the 60' x 60' not work? Joel Kohn – Correct. Chairman McClernon – The PUD was designed for and I would say just about everyone else in the PUD built a 60' x 60'. Joel Kohn – I'm not sure of the history and when the 60' x 60' regulation was added. Chairman McClernon – Well, that is what is currently in our Town code, it may have been changed since the beginning when the PUD was started, but it is my opinion that if people now want bigger houses now, they should go in front of the Town Board and petition to have the dimensions changed. I mean this is specific to the design of this PUD and now we are going outside of the limits it was designed for. Joel Kohn - That is exactly why we are here and it's not substantial. Chairman McClernon – Well, it is. 13 feet with 2-stories is. Joel Kohn – They are all 2-stories over there so it fits perfectly with the character of the neighborhood and like I said, we are not asking to exceed the square feet, we are doing less than the allowed square footage. I know there is a

dimension of 60' x 60', which we are exceeding, but it is still only 2,780 square feet. To me this is very minimal. Chairman McClernon – If I was on that side of the table, I may feel the same way. Jim Carnell – How big is the existing structure? Joel Kohn – 60' x 30'. Jim Carnell – So, the existing building is less than half of what is permitted there? Joel Kohn – Correct. Jim Carnell – So, what they are proposing to add on is about half of the square footage they would be allowed to add on, if they were within the allotted dimensions? Or only 2/3rds total of what they would be allowed to build on the lot? Joel Kohn – Correct. Jim Carnell – I understand and my apologies because when I first looked at this, I didn't realize this was one whole lot. So, they can have one 2-family on it that could be 60' x 60' and they just want to come out this way. Chairman McClernon – Yes, but for a total of 73 feet and into the front yard. Joel Kohn – What front yard? Chairman McClernon – Well, that is where the new one is going, on the front side of the house. Jim Carnell – It is a total of 73 feet from the back of the original house to the front of the proposed addition. Chairman McClernon - Right. Cindy Ruff – What prevents them from adding this on to the back side? Joel Kohn – They want it on the front to make more frontage. They want to have a nice dining room here and want it to be on the front of the property. Jim Carnell – The floor plan from the existing building and the slope are the same, right? Joel Kohn – Yes, it all matches up. Jay Mendels – So, it is less than what could potentially be added to the property? Jim Carnell – Correct. If you look at the square footage, it is only 2/3rds of what they could potentially build on the property. Jay Mendels – Understood. Cindy Ruff – Does it have to be a maximum of 60' x 60'? Chairman McClernon – That's what the zoning in the PUD allows. Paula Kay – All of the PUDs have their own regulations and for Viznitz there are specifics as to minimum/maximum lot size and building size. As the application shows clearly, it is the 60' Joel is asking for the variance from. Joel Kohn – So, it is only because of the dimensions and not because it exceeds the 3,600 square feet, they would be allowed to add without having to come to this Board. Cindy Ruff – Understood. Thank you. Jay Mendels – I'm not very familiar with the area there. Jim Carnell – There is an aerial photo. Jay Mendels – Okay and touching on what the chairman mentioned, the addition is essentially going to be in the front yard and I was just wondering if that fits in with the neighborhood or not. Chairman McClernon – No and it's going to come out by the driveway. Jay Mendels - Is there a proposed garage with this addition, or just living space? Joel Kohn – Just living space. Jay Mendels – Why not go off the back? Joel Kohn - The way the house is, they want to have more exterior walls to have more windows and open area to the outside. If they do an addition to make the building 60' x 60', they are cutting off 60 feet of outside wall with windows. Jay Mendels – So, why not do the same addition on the back side of the house. Joel Kohn – They would still need the same variance.

No further comment from the Board.

Meeting was opened to the public.

No public comment.

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

(1) Whether benefit can be achieved by other means feasible to applicant; All voted yes

(2) Undesirable change in neighborhood character or to nearby properties; 3 voted no and 2 voted yes  
(Chairman McClernon and John Kelly)

(3) Whether request is substantial; 2 voted no (Jay Mendels and Cindy Ruff) and 3 voted yes

(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 requested variance was made by Jay Mendels and second by John Kelly.  
4 in favor, 1 opposed.

A motion to adjourn the meeting was made by Jay Mendels and second by Sean Walker.  
5 in favor, 0 opposed.

Respectfully submitted,

Laura Eppers  
Secretary  
Town of Thompson Zoning Board of Appeals