

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
February 13, 2024

IN ATTENDANCE: Richard McClernon, Chairman Darren Miller, Alternate
Cindy Ruff Paula Kay, Consulting attorney
Jay Mendels
Phyllis Perry
Sean Walker
Jim Carnell, 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 December 12, 2023 minutes was made by Jay Mendels and second by Cindy Ruff.

All in favor, 0 opposed.

A motion to take the agenda out of order was made by Jay Mendels and second by Richard McClernon. All in favor, 0 opposed.

APPLICANT: PATIO HOMES – KIAMESHA SHORES

Robert Road
Kiamesha Lake, NY
S/B/L: 9.-C-23-1
Ginette Cutway, Representative

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Garage exterior finishes from required “matching the principal building” to proposed metal roofing and siding (2) Garage door height from required 8’ to proposed 10’. Property is located on Robert Road, Kiamesha Lake, NY. S/B/L: 9.-C-23-1. In the Zone: SR with central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Ginette Cutway – This is a prefab, metal building to be used as a maintenance garage and to store equipment. I don’t know the ins and outs of the town codes and procedures, but per our bi-laws, commercial buildings are not required this to be uniform with the rest of the buildings. When doing our research, we decided that a metal, prefab building would work best for us.

Chairman McClernon – Our main concern is the matching colors. It looks like the other buildings are white or a lighter color and this will really stand out. Ginette Cutway – We went with blue and gray to try and stay with the colors in the development. Chairman McClernon – Okay. Jay Mendels – And you, as a representative of the HOA, feel comfortable with the color and don’t think it will stand out like a

sore thumb? Ginette Cutway – Correct. It looks pretty nice. Paula Kay – Does the rest of the HOA agree with that as well. Ginette Cutway – Yes.

Phyllis Perry – Is there a reason you decided to go with prefab? Ginette Cutway – There was previously a wooden building there that was rotting away from water damage, that also resulted in 5 types of molds being found, so we felt the metal would be more sustainable.

Paula Kay – Do you have any renderings or pictures of the building? Ginette Cutway – I do have a picture, but I don't know how to show you over Zoom. Jay Mendels – There is something on the Drive.

Phyllis Perry – What is the reason for the 10-foot door? Do the prefabs not come in 8 feet? Ginette Cutway – We were hoping to also store our work truck in there.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

Kara Huberman, residing at 15 Laura Lane – Is also an HOA board member and confirmed that the HOA has no issues with the structure or the colors.

No further questions or comments from the public.

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

(1) Whether benefit can be achieved by other means feasible to applicant; 4 voted yes and 1 voted no (Cindy Ruff)

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

(3) Whether request is substantial; 4 voted no and 1 voted yes (Cindy Ruff)

(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 variances requested was made by Jay Mendels and second by Sean Walker.
All in favor, 0 opposed.

APPLICANT: WILLIAM ROMERO

76 Old Ryan Road

Monticello, NY

S/B/L: 51.-1-2.4

David Witthohn, Engineer

Applicant is requesting an Area Variance from §250-16A(1) and 250-16(B) of the Town of Thompson Zoning Code for (1) Accessory building closer to the road than the main dwelling which is not allowed (2) Accessory building height from required 15'-0" to proposed 20'-4". Property is located at 76 Old Ryan Road, Monticello, NY. S/B/L: 51.-1-2.4. In the Zone: RR-1.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

David Witthohn – I am the professional that prepare the plan and I am also the applicant's neighbor. A few years ago, the applicant got a permit to build a log cabin on his 44-acre property. His property was originally two separate pieces and he joined them together to be able to have the acreage for hunting. The cabin sits in the middle of the property and there is a road that runs through the upper, left-hand corner. Prior to obtaining the certificate of occupancy, he put a picnic pavilion in between the cabin and that road. There was an existing garage here when he purchased the property. Now, the definition of a front yard is the space between the house and the road. The house sits 400 feet into the property and everything he did in front of the house is considered to be in the front yard. The two recent structures that he needed to get a permit for were what the applicant refers to as a "shooting shed" and a sauna he built. The shooting shed has a catwalk that goes from the ledge where the house is and he built this little phone booth on top of stilts because he is a sportsman and he has a shooting range. So, when the inspector came by to do a final inspection, he observed the shooting shed was well in excesses of the 15-foot maximum for an accessory building. Even though it's small, 96 sq. ft. if I recall, it is too tall. So, we were faced with two issues, the height of the structure, even though it is small enough not to require a building permit, and everything in the front yard.

Jay Mendels – Okay, I understand better now because it wasn't very clear. I had no idea what structure we were looking at and what we were presented made it sound like it was only one building looking to get variances. Chairman McClernon – The shooting shed is behind the house, right? David Witthohn – The shooting shed is here and if you consider the left side his front yard, it would need a variance as well. Paula Kay – No, it's closest to the road. David Witthohn – Because the road comes in here along this little finger, as my lot and this other lot were subdivide out of this big rectangle creating that. Paula Kay – What is the road in question? Chairman McClernon – I believe that road goes up to the circle where your finger is on the map. Jay Mendels – And that is the road we are talking about, so I don't think the shooting shed has anything to do with that. Jim Carnell – Right, that is here for the height. Paula Kay – So, there are two variances being requested; an accessory building, singular, closer to the road than the main dwelling. Chairman McClernon – Now, would that be the garage? David Witthohn – This garage here because this is the cabin and the road is here. I would presume that everything in the area would be considered in front of the house. Paula Kay – What other structures are there? David Witthohn – There is a woodshed here. Paula Kay – Jim, would that need a permit? Jim Carnell – No and most of them wouldn't. I know there have been a lot of structures added to the property over the years. Chairman McClernon – And the most recent aerial view we have of the property is from 2007, which showed a garage there that looks pretty much the same as the one there now. David Witthohn – Right. That garage has been there and it is not new. He just jazzed it up a little bit. Phyllis Perry – So, for some clarification, the structure that we are talking about being too close to the road is the wood shed and then the height of the stand? Chairman McClernon – No, the garage. Phyllis Perry – Okay. The garage is too close and the shooting shed is too high. David Witthohn – Correct. Jay Mendels – And we don't have to be concerned about any other structure closer to the road, right? Paula Kay – The only structures that this Board needs to review are the garage and the shooting shed. Jay Mendels – Okay. Sean Walker – And the garage was pre-existing? Chairman McClernon – Right. It has been there since at least 2007.

No further questions or comments from the Board.

The meeting was opened up to the public for comment, but there was no public for this project.

A motion to close the public hearing was made by Jay Mendels and second by Cindy Ruff.
All in favor, 0 opposed.

(1) Whether benefit can be achieved by other means feasible to applicant; 3 voted no for both variances, 1 voted yes for both (Jay Mendels), and 1 voted no to the accessory structure and yes to the height variance (Phyllis Perry)

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

(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; 2 voted no for both variances (Cindy Ruff and Chairman McClernon) and the other 3 voted no for the accessory structure and yes for the height variance

A motion to approve the requested variances was made by Sean Walker and second by Jay Mendels.
All in favor, 0 opposed.

APPLICANT: DYNASTY COTTAGES

283 State Route 17B

Monticello, NY

S/B/L: 18.-1-18

Joel Kohn. Representative

Applicant is requesting an Area Variance from §250-12, 250-21B(4), and 250-34D(6) of the Town of Thompson Zoning Code for (1) Bungalow dwelling unit separation (b/t 2 & 3) from required 25' to proposed 19' (2) Bungalow colony rear yard setback (unit 1) from required 150' to proposed 122' (3) Bungalow colony one side yard setback from required 100' to proposed 90' (4) Bungalow dwelling unit separation (b/t 14 & 15) from required 25' to proposed 23' (5) Bungalow dwelling unit separation (b/t 12 & 13) from required 25' to proposed 23' (6) Increasing nonconforming bungalows which is not permitted (7) Bungalow colony density from required 20.34 units to proposed 21 units. Property is located at 283 State Route 17, Monticello, NY. S/B/L: 18.-1-18. In the Zone: CI

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Joel Kohn – This is an existing 20-unit bungalow colony at the intersection of State Route 17B and Hamilton Road. It is in the CI zoning district and they are looking to add several additions to the existing units and build an additional unit. I would like to first get some clarification on what is most of the requested variances and Paula maybe you can help me with that. All of the variances for the additions are listed under section 250-21B(4) and if you take a look at that, it allows for these additions without any variances being required. Paula Kay – I will read the code section for everyone; “Normal maintenance and repair, alteration, reconstruction or enlargement of a building which does not house a

nonconforming use but is nonconforming as to district regulations”, which this is because it is a bungalow colony, “for lot area, lot width, front, side or rear yards, maximum height and lot coverage or other such regulation is permitted if the same does not increase the degree of, or create any new, nonconformity with such regulations in such building”. Joel Kohn – So, these are nonconforming structure with respect to lot area, or separation in our case, but the colony is a permitted use in the zoning district. The additions are not increasing the nonconformity, because they are not making the units any closer to each other than they were before, so they shouldn’t need variances for that. For example, units 14 and 15 are currently 23 feet apart and that will stay the same after the additions. The same with units 12 & 13 and 2 & 3, so they should not require a variance for that, according to the provision. Paula Kay – How does the disapproval read? Joel Kohn - The notice of disapproval for the first variance says the separation for units 2 & 3 is required 25’ and proposed is 19’, but they currently have 19’ in between, so they are not increasing the nonconformity. Same does not apply for the second variance request, because that addition goes slightly at an angle and does increase the nonconformity, and the third request is also needed, but numbers four and 5 are incorrect as well. Then number six is for increasing nonconforming bungalows, but I think it is just the opposite. This is actually allowing us to increase without needing a variance, which is what we just discussed. I believe that leaves us with three variances needed. One is for the request for 21 units, one is for increasing the rear yard nonconformity for unit 1, and the other is the 90 foot side yard setback for the colony. Jim Carnell – Just to go back to the topic of not needing a variance, code 250-34D(6) states “All bungalows, including any expansions to existing bungalows, shall be separated from adjoining bungalows by a distance of a minimum of 25 feet.” Joel Kohn – That is a separate section which is not listed. Paula Kay – Logan does list that section in her disapproval and that would be the section those fall under. They are just trying to clean up what is already there and I see where Joel is coming from, but this section does require a variance. Joel Kohn – Then it is a contradiction in the code. Paula Kay – Well, at this time what is before the Board is what Logan gave then with her denial and that is what they need to review. I don’t think it is a major ask and I think it would make the property cleaner if the variances were granted. Joel Kohn – Okay. That is fine, but I just wanted to point it out. Chairman McClernon – I did look at this with the building department and for the most part everything is staying in line with what is already there and nothing is really extending out more. Jim Carnell – Plus it was noticed to include all the requests. Jay Mendels – The only thing is that if we approve all of the requests, we are allowing the increasing of nonconforming bungalows and that is kind of leaving it open ended because we are not approving a specific increase. Jim Carnell – This still have to go back to the Planning Board. Jay Mendels – For that part of it? Jim Carnell – For all of it. Jay Mendels – Okay. Chairman McClernon – It would be nice if the notice mention which units were going to build the additions. Paula Kay – That is shown on the site plan. Joel Kohn – Plus, like we discussed, they are not increasing that nonconformity and really should need that variance. Chairman McClernon – But it should tell us which units will be included and covered by our approvals. Paula Kay – It will be units 2, 3, 1, 12, 13, 14 & 15. Joel Kohn - The notice didn’t mention the unit numbers? Chairman McClernon – No. It just says increasing a nonconforming bungalow colony. Joel Kohn – That was meant for just in general. She just listed to cover everything; they are notice increasing that nonconformity any more. Jay Mendels – Okay and that is the one we were discussing before. Jim Carnell – And their Planning Board approval will cover specific units, so you are not just giving a blanket approval for the whole colony going forward. Sean Walker – That makes since. Paula Kay – Then there is the addition of unit 21, which is proposed to be properly spaced to be conforming.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

Leo Glass, residing at 20 Hammond Street - Asked the below questions:

- Are they proposing to take three existing units and make six out of them?

Chairman McClernon – No. They are already duplexes.

- How many units will there be when they are done?

Chairman McClernon – They will have 21. Jim Carnell – There are currently 20 units. They are asking for additions to 4 of those units and then to add a new unit; totaling 21 units.

- Why were you discussing the separation of the units?

Joel Kohn – We were talking about the separation distance between the units. Jim Carnell – Our code requires a certain distance between each building and they currently do not meet that distance, but they will maintain what is already there for the most part.

No further questions or comments from the public.

A motion to close the public hearing was made by Cindy Ruff and second by Phyllis Perry.
All 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; 4 voted no and 1 voted yes (Phyllis Perry)
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; 3 voted yes and 2 voted no (Jay Mendels and Sean Walker)

A motion to approve all of the requested variance was made by Jay Mendels and second by Cindy Ruff.
All in favor, 0 opposed.

APPLICANT: GARDEN COTTAGES

Varnell Road

Monticello, NY

S/B/L: 18.-1-41.2

Joel Kohn, Representative

Hershy Wertzberger, HOA Board member

Applicant is requesting an Area Variance from §250-21D(2) and 250-34D(7) of the Town of Thompson Zoning Code for (1) Bungalow separation (units 2 & 3) from required 25' to proposed 20.6' (2) Bungalow separation (units 4 & 5) from required 25' to proposed 19.5' (3) Bungalow separation (units 12 & 14) from required 25' to proposed 22.4' (4) Bungalow separation (units 15 & 16) from required 25' to proposed 16.8' (5) Bungalow separation (units 6 & 7) from required 25' to proposed 15.7' (6) Bungalow separation (units 19 & 20) from required 25' to proposed 15' (7) Bungalow separation (units 20 & 21) from required 25' to proposed 19.1' (8) Bungalow separation (units 22 & 23) from required 25' to proposed 19.7' (9) Non-conforming bungalow expansion (units 1 & 2) from required 15% or 200 sq. ft. to

proposed 70.3% or 1,418 sq. ft. (10) Non-conforming bungalow expansion (units 3 & 4) from required 15% or 200 sq. ft. to proposed 98.6% or 1,460 sq. ft. (11) Non-conforming bungalow expansion (units 5 & 6) from required 15% or 200 sq. ft. to proposed 40.9% or 607 sq. ft. (12) Non-conforming bungalow expansion (units 7 & 8) from required 15% or 200 sq. ft. to proposed 32.3% or 700 sq. ft. (13) Non-conforming bungalow expansion (units 9 & 10) from required 15% or 200 sq. ft. to proposed 26.1% or 285 sq. ft. (14) Non-conforming bungalow expansion (units 11 & 12) from required 15% or 200 sq. ft. to proposed 81.8% or 1,499 sq. ft. (15) Non-conforming bungalow expansion (units 14 & 15) from required 15% or 200 sq. ft. to proposed 59.8% or 1,014 sq. ft. (16) Non-conforming bungalow expansion (units 16 & 17) from required 15% or 200 sq. ft. to proposed 109.6% or 2,117 sq. ft. (17) Non-conforming bungalow expansion (units 18 & 19) from required 15% or 200 sq. ft. to proposed 64.9% or 1,200 sq. ft. (18) Non-conforming bungalow expansion (unit 20) from required 15% or 200 sq. ft. to proposed 54.2% or 688 sq. ft. (19) Non-conforming bungalow expansion (units 23 & 24) from required 15% or 200 sq. ft. to proposed 66.5% or 1,194 sq. ft. (20) Non-conforming bungalow colony lot coverage increase from required 10% to proposed 10.3%. Property is located on Varnell Road, Monticello, NY. S/B/L: 18.-1-41.2. In the Zone: SR with central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Paula Kay explained that both the notice of denial and the legal notice referenced the wrong code section. It should be 250-34D(6), not 250-34D(7).

Hershy Wertzberger – Before Joel starts, I just wanted to say that I am here tonight because we wanted to show our commitment to resolve this issue that has been going on for a while now. Last year there were a couple of owners that built without permits and we realized that needs to come to an end. We formed a new Board, hired a new manager, and made it very clear to all of the owner that there cannot be any more building without getting approval from both the Town and our board first. We installed cameras to help us stay on top of that so that none of this happens again in the future. We are here tonight to get everything resolved and back in order.

Joel Kohn – This is an existing bungalow colony on Varnell Road and it is in the SR zone, which does not permit bungalow colonies. They have expanded throughout the years and some were done just last year. I believe a lot of these additions are nonconforming in respect to the 15% or 200 sq. ft. expansion and the minimum separation distance of 25'. They also have built over the property line, so we proposed a lot line change to the Planning Board, before coming here, that will take care of the two units over the line. They asked if we could get at least a 20' setback with the new property line and after going back and having a discussion with the property owners, we were able to get a 10-foot setback with an additional 10-foot easement. This way no one can build in those 20 feet and there will be adequate access between the two properties. I don't know if you want to discuss these one by one or all together, but this ended up in court after some stop work orders were issued by the building department. I was brought in afterwards and we ordered a new survey and site plan so we can show everything that has been done to the site over the past 20 years or so. This way we can get the proper approvals needed.

Chairman McClernon – How many units are there total? Joel Kohn – There are 23 units shown on the plan. Jay Mendels – It looks like you have up to unit 24. Joel Kohn – There is no unit 13, so there are only

23. Chairman McClernon – It also looks like units 9 & 10 are only one unit; unit 10. Joel Kohn – That's correct. Units 9 & 10 have been combined, but we are showing 24.

Chairman McClernon – It looks like these additions were not done on just a couple units, but just about every one of them. Paula Kay – Right, almost every unit has had an addition. Chairman McClernon – The gentleman earlier said there were a few owners who build without a permit. Joel Kohn – There were only a few owners who built last year. We have worked with the building department and what we are showing is everything that has been done over the last 20 years. Jim Carnell – And we didn't have any records of the prior construction. Jay Mendels – It is our understanding that work was continuing after the stop work orders were issued. This may be before you were involved, but there was blatant disregard for the request to stop and they didn't stop until they were dragged into court, right? Joel Kohn – That is why we are here. Hershy Wertzberger – That's when some of the owners came together and acknowledged the issue with the Board and management, at that time, and voted in a new Board and new management. We know that we need to fix what has been going on. That is why we have hired Joel and have been working with him over the past couple months to do so. Jay Mendels – When did the new Board come into existence? Hershy Wertzberger – I believe we voted last July. Jay Mendels – And when was this brought into court? Hershy Wertzberger – A long time before that. I believe the construction was happening in the December and January prior.

Paula Kay – Also, as Joel mentioned, there were a couple units built over the lot line and that is the reason for the request for a lot line change. That way that issue can also be handled. Joel Kohn – Right. That is currently in front of the Planning Board and I just pointed it out, so that this Board can be on the same page. Jay Mendels – Do they also own the adjoining property or do they have plans to purchase it? Joel Kohn – No. It is a separate property owner, but they are working together for this lot line change.

Chairman McClernon – When looking at this now, even though they were already built and changed, I am deciding on what I would have voted for if it had been done properly. For example, units 1 & 2 want 70.3% and the allowed is 15% or 1,400 sq. ft. when the allowed is 200 sq. ft. Normally we work with people and we have seen up to 300 or 400 sq. ft., but I can't ever remember, myself, voting for something this large. As for the separations, some of these additions are decks, which to me is minimal because there is less chance of damage to the building next to it if it catches fire. In recent years we have had issues with other colonies and developments catching fire and taking out numerous buildings because of how close they were.

Paula Kay – I believe there was also discussion at the Planning Board about the construction itself. In some cases, it needed to be looked at because it did not seem to be up to code. Chairman McClernon – Well the walls have already been put up for a lot of these and the construction already finished, so it would be hard to tell at this point. Paula Kay – I think the building department has already taken a look at the seven that were done last summer. Chairman McClernon – When I was out there the additions for 1 & 2 and 3 & 4 were just studs, so those can be checked. But those are still way over anything I would agree to. Joel Kohn – The 1,400 sq. ft. expansion for those units includes the porch as well, so I just wanted to make sure it was clear that everything was included in that square footage. The building portion itself is 20' x 40', so that is about 800 sq. ft. Jay Mendels – Wasn't there a porch before? Joel Kohn – There was some porch, but definitely not this size at all. The 70% expansion is about half and half because those are bigger decks. Jay Mendels – But there is no way to know that. Joel Kohn – No and by code it would all be included in the expansion percentage anyway. Chairman McClernon – Another thing is, if you look at 1 & 2, they are just showing a rectangle on the back of the building, but if you look at the previous arial view, 1 & 2 were separate by 6 or 8 feet and both had a section that stuck out more

than the rest, so they were not squared off. Joel Kohn - I know they are increasing the lot coverage, but if you take a look at these, they are not mansions or anything like that. Units 1 & 2 are 3,400 sq. ft., so that is only 1,700 sq. ft. per unit. Yes, they are larger units, but we are not talking about mansions here. Chairman McClernon - But they built way more than the code allows. Joel Kohn - That is why we are in front of the Zoning Board tonight. Chairman McClernon - But that is why I don't agree with some of these, in my personal opinion. Phyllis Perry - The fact of the matter is, even if you take away the porch, you are still going from 200 sq. ft. to 800 sq. ft. and that is a big difference from what the code allows. Joel Kohn - Agreed, but they have larger families and needed to accommodate for them. The right thing for them to have done was come before you prior to building anything and explain their situation, but unfortunately, they did not and we are here tonight trying to rectify that. Chairman McClernon - The thing is, without a site plan we can not tell what the expansion for each building will look like and what the true square footage will be. Joel Kohn - So, we did a new site plan based on the new survey we had done and the engineer basically took the old site plan, from the early 2000's, and match it the best he could with what is there today. Like previously mentioned, most of these additions have already been built, so he took what was on the old site plan and compared it to what is currently there to figure out what the new square footage is. It may be a couple feet over or under, but he tried to be as accurate as possible. Jay Mendels - I personally have an issue with the blatant disregard that got us to this point and essentially, now you are asking us to just let this go and forgive what has been done. That I have a problem with and I don't feel that this should just be a blanket approval for everything that has been done. Joel Kohn - It is unfortunate and you have seen this happen a couple of times with other colonies, some that I have represented and some that I have not. So, maybe it's worth considering increasing the allowed expansion in the zone. Jay Mendels - I think the code was changed to try to avoid situations like this. So, to increase the nonconformities in these colonies, is going against the whole purpose of the code. Joel Kohn - True and I get it, but you have all of these existing bungalow colonies and families that want to expand. Jay Mendels - But those families bought knowing what they had. Joel Kohn - Most of these families have been here for the last 20 years or so. Jay Mendels - Okay, so they knew and this is not a situation they were getting into not realizing. Joel Kohn - Back then, this was allowed. From my perspective, as a Town, maybe you should look at an incentive for demolishing these old bungalows and buildings something that conforms. Paula Kay - That would be something for the Comprehensive Board. Joel Kohn - Right and again, I understand that there was blatant disregard and I get it, but they are here now in front of this Board and they need these expansions. They should have come prior to doing the work, but they didn't and they are now asking for this Board's approval. Paula Kay - Theoretically, what would happen if the Board denied some or all of these? What would the individual unit owners do? Joel Kohn - Probably file an article 78. Paula Kay - I didn't mean legally, I meant what are their other options? Joel Kohn - Honestly, I don't see them tearing down all of these additions, unless they are told to do so by a judge. It is a tough question and I don't have a good answer for that. Phyllis Perry - The problem is, if we were to approve this, there are some many other bungalow colonies here and we are going to end up having to potentially approve others in the future and that puts us in a difficult position. Joel Kohn - With regards to the quality of the construction done, if they do get all of their approvals from both the ZBA and the Planning Board, they still will need to get building permits and c of o's for all of the additions. Which means they will have to hire their own engineers to get sign offs on the work done and they may have to open up some of the walls to get that. Cindy Ruff - Which could have been avoided if they had done it the right way. Joel Kohn - I am not disagreeing. Cindy Ruff - I'm just saying that you are getting at this being an extra expense to them, but it is their own doing. Joel Kohn - Right and it is an expense they will not be able to avoid, but I was just saying that the construction issues will also be addressed along the way. Cindy Ruff, Oh, okay. Understood.

Jay Mendels – Besides what is in front of us now, are there any other violations? Jim Carnell – There are other properties that are not part of this, the colony across the street and maybe this one next door. Jay Mendels – I mean other violations in regards to this property. Joel Kohn – I actually have a list of all of the violations and I will hand that around. They are all with respect to the additions, except for the open complaints in regards to fire inspections from 2017 and 2020.

Chairman McClernon – Do they have private or public sewer? Joel Kohn – They have a private septic. Chairman McClernon – When was the last time it was updated? Joel Kohn – They don't have good information about the existing septic system. Paula Kay – That was something the Planning Board also raised. They specifically asked for bedroom counts, in the event that the septic needed to change, but they have not come back to the Planning Board yet to relay that information. Joel Kohn – And we will have to deal with the Planning Board and their requests next, if we can get approval from this Board. It doesn't make sense to continue with the Planning Board before we know if we can get the required variances. Paula Kay – I will say yes and no to that, only because I am looking at the notes from their meeting and it looks like they wanted a little more information before you came to this Board. Joel Kohn – We did go back to them with the required information before coming here. They asked about two things; seeing about extending the lot line more and if any bedrooms had been added. I was back in front of them in January to address those two things. Jim Carnell – Right and I believe that is when they said they would be okay with the 10' lot line with the additional 10' easement. Paula Kay – Okay.

Chairman McClernon – My opinion on the separation between units is to stay as close to the 25' as possible. We have forgiven 5 or a few more feet, but I went through and looked at these and the first one, units 2 & 3, are only 5' apart because of the addition. The second one, units 4 & 5, are 19.5, which is much better. The third one is units 12 & 13, which is 22.4' and also would be no problem for me. Units 15 & 16 is proposed at 16.8', which is stretching it and is also due to the expansion. 6 & 7 is 15.7' and that is due to the deck, which to me is better than an addition. Units 19 & 20 is proposed to be 15'. Units 21 & 25 are 19.1 from an existing driveway. That's it as far as separation. Joel Kohn – Did you mention units 22 & 23. Chairman McClernon – No, but those are 19.7 and that is a deck, so I don't have an issue there. So, I don't really have an issue with the first eight, myself. Joel Kohn – And those are the separations? Chairman McClernon – Right. Now, personally, for the nonconformities, starting with the 9th request, 1,400 is definitely out. As well as the 1,416 & 1,460. Paula Kay – The other thing to notes is, assuming you grant these, they are allowed the 15% expansion, so there should probably be something added to the plan stating there will be no further expansion. Chairman McClernon – Doesn't the code only allow for one expansion? Paula Kay – Right, up to. So, I would just note it on each individual unit as to what they already received. That way it is clear to anyone looking at it that there will be no further expansion. Chairman McClernon – Okay. So, units 7 & 8 are 700, which is almost double what is allowed. Jay Mendels – Are you looking at the final square footage, or just the expansion square footage? Because the total for units 7 & 8 will be about 2,866 sq. ft. Joel Kohn – That one has a large deck. Chairman McClernon – That must not be included because this says it is only 700 sq. ft. Joel Kohn – because that is all the expansion was for the deck. Chairman McClernon – Units 9 & 10 says 285 sq. ft., which I have a problem with the site plan because it doesn't show the indent on the front of the unit which is still there. Units 11 & 12 has an additional 1,499. Phyllis Perry – Which is crazy. Joel Kohn – I get it and most of this square footage are from large decks. Phyllis Perry – The interesting thing for me is that you are saying most of the square footage is coming from decks, which is included in living space, but you don't really need that. The reality is if they went back and put smaller decks on, the square footage wouldn't be so huge. They would still be nonconforming, but it would be closer to what is allowed. Could that be an option? Joel Kohn – I can ask or maybe Hershy wants to chime in on that. It is hard to talk to each individual unit owner to discuss this with them. Jim Carnell – You keep saying there

are individual owners, but isn't this a bungalow colony. Joel Kohn – I think everyone has a share in the corporation, but I'm not really sure. My understanding is that everyone owns their unit. Jim Carnell – Then it is not a bungalow colony. Joel Kohn – Because the units are not rented? Jim Carnell – In the definition of a bungalow colony, it says "under single ownership". Joel Kohn – It is a single ownership as far as entity goes. Paula Kay – They may own shares in the corporation. It also doesn't seem equitable between the different units because some of them are increasing over 100% and I agree that most of it is deck. Maybe it would be better for all of them, as a group, to try and figure out a way to reduce. That way it would be more palatable to the Board to perhaps grant some of expansion so that everyone does get their living space. But when you are increasing up to 2,200 sq. ft. that is a 110% increase. I think that makes it hard for this Board to rationalize. We are talking about 26%, 98%, 100%, 70%, 80%, so it makes it very tough on the Board. Phyllis Perry – And when talking about needing more space for expanding families, that doesn't really mean deck space. Joel Kohn – I definitely get it and I will have to go back and have a conversation with them to see if there is any way the deck space can be reduced to decrease the expansion footprint, by both size and percentage. Jay Mendels – Do you want to do that before we vote on this? Joel Kohn – Is there anyway we can vote on some of the requests tonight, the ones the Board is okay with, and then come back for the rest? Paula Kay – I would prefer to not vote tonight because I don't want any litigation to get in between. It sounds like there may be something we can work out, but if there is litigation, that will change everything. Maybe the Board can go though and give Joel a sense of where you will end up, but don't take any formal action. Jay Mendels – Can we vote on only the separation requests tonight and wait on everything else? Paula Kay – If the Board is comfortable with that. Jay Mendels – Or is it more advisable to wait? Phyllis Perry – Well some of the separation is smaller because of the decks. Sean Walker – That's true. Paula Kay – I think that Joel and his client are going to have to work out a lot with the individual families, so I would just give them a sense of where you are heading tonight.

Hershy Wertzberger – To answer the Boards question about ownership, yes, we are all owners in the corporation. Only some are on the HOA Board, but everyone has a share. As for the question about decks being living space, the whole purpose of us coming up in the summer is to be outside. A lot of us live in Brooklyn in small apartments, so the kids don't get the luxury of running around and spending time with family. So, it is actually important to us to have that deck space. Phyllis Perry – You will still have the yard space if you make the decks smaller. Paula Kay – Or lower to the ground, so they wouldn't be considered a deck. Jim Carnell – Right. They would then be considered patios. Paula Kay – And then you wouldn't have this same issue. Paula Kay – I suggest that Joel go back and massage this a little bit with his client because I think there are things that can be done here. Joel Kohn – Okay, so it doesn't seem like there will be any votes from the Board tonight, so we will go back and take a look and see if there is anything we can do to accommodate the Boards concerns. Then come back with a somewhat modified plan. Chairman McClernon – Is there any way to separate the living and deck space? Joel Kohn – It won't be an easy task, but it can be done. Jay Mendels – I don't think it will be that difficult because the increases including the decks before. Joel Kohn – By definition, it is all the same. Chairman McClernon – Right, so just forget what I was talking about.

Paula Kay – I don't know where you are with the neighboring land owner, but it would be helpful if maybe they could have a representative at the next meeting. Or maybe authorize you to represent them as well. Jay Mendels – Is that the one the are seeking the easement from? Paula Kay – Yes. Paula Kay – Or maybe even something in writing stating they are okay with what is being proposed. Joel Kohn – Okay.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

Leo Glass, residing at 20 Hammond Street – Stated he appreciates the Board’s patience with this applicant and he also agrees that the expansion requests are too substantial. Along with the expansion will come more people and that will increase the usage of water, sewer, and sanitation. Feels the applicant is insulting this Board and needs to come up with reasonable accommodations.

No further questions or comments from the public.

A motion to keep the public hearing open until the next meeting, March 12, 2024, was made by Jay Mendels and second by Phyllis Perry.

All in favor, 0 opposed.

APPLICANT: NOB HILL COUNTRY CLUB

4599 State Route 42

Kiamesha Lake, NY

S/B/L: 9.-1-51.1

Joel Kohn, Representative

Sara Guttman, Owner

Applicant is requesting an Area Variance from §250-21D(2) of the Town of Thompson Zoning Code for (1) Non-conforming bungalow expansion (unit 13) from required 15% or 200 sq. ft. to proposed 197% or 1,692 sq. ft. Property is located at 4599 State Route 42, Kiamesha Lake, NY. S/B/L: 9.-1-51.1. In the Zone: SR with central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Paula Kay advised the code for this request should also be 250-21D(7), not 250-21D(2).

Chairman McClernon – We discussed this in the work session and it should really be only 1,500 sq ft, right? Joel Kohn – Unit # 13 is an existing 858 sq. ft. bungalow that they are looking to demolish. They actually got approval from the Planning Board to replace this with a 1,050 sq. ft build, but they are now proposing to build a 1,500 sq. ft. building, but also have a second story. The second floor will be 1,000 sq. ft., so it’s a total of 2,550 sq. ft. Which is 1,692 sq. ft. more than the 858 sq. ft. they currently have. Chairman McClernon – Okay. Jay Mendels – So, it is going from one-story to two-stories? Joel Kohn – A portion of the building will be two-stories. He has a big family and a special needs child with an aid in the house, so they need the extra space. The actual footprint of the building is a 74% increase or 197% if you include the second story. But the footprint is only increased by 74% and it will be similar to other buildings that recently got approvals from the Planning Board to be replaced. It will fit right in with the other buildings. Jay Mendels – Are the other buildings also two-stories or planning to be because I don’t remember any other buildings coming in front of us? Joel Kohn – Units 14, 19, and 20 were all bigger units to begin with. 19 and 20 have 1,650 sq. ft. footprints and 14 has 1,500 sq. ft. Units 19 and 20 were built that size and unit 14 didn’t need a variance because it was originally bigger than the current 1,500 sq. ft. Jim Carnell – Right and unit 13 is very small in comparison to the others. Jay Mendels – But the

other bigger units are duplexes, right? Joel Kohn – No, they are single units as well. Jay Mendels – So, 11 & 12 are all one unit? Joel Kohn – No, if you look at 19, 20 and 14, they are all singles. What is being proposed will not be bigger than units 19 and 20 and about the same size as unit 14. Chairman McClernon – And you said it was originally approved for 1,050 sq. ft. by the Planning Board? Joel Kohn – Yes. McClernon – What year was that? Joel Kohn – 2023. Jay Mendels – So, they approved the increase for a one-story building and now you want to make it a two-story? Joel Kohn – Correct and this is a little different from the other bungalow colonies because this blends in with the rest of the units. Paula Kay – They have also made some very good changes and improvements there. Chairman McClernon – But, they don't pull permits. Logan was out there last week and they are building decks on the back of the new townhouses. Joel Kohn – That is a separate property. Chairman McClernon – Same owners though? Joel Kohn – No. Jay Mendels – Okay and there are no other open violations? Jim Carnell – No and this is serviced by Town sewer. Joel Kohn – Right and the percentage of lot coverage is below the 10%. It is at 7% now and with all of the approval it will be at 9.4%. Jay Mendels – The previous application came before us for the same reason and I would have a hard time saying it is okay for this one, but it wasn't for that one. Chairman McClernon – I'll second that. Joel Kohn – Like I said, the foot print will only be 1,500 sq. ft. Jay Mendels – Which has already been approved by the Planning Board. Joel Kohn – No. 1,050 sq ft. was approved by them. Jim Carnell – When they went and got their site plan approval, they went from 858 to only 1,050 sq ft. in order to not have to come before this Board. The addition request to increase further, to the 1,500, puts them over the 200% allowed, which requires a variance. They want to completely demolish and rebuild due to the configuration of the building and it being all pieced together. That way they can also have a uniformed roof line and be able to manage the space better. Jay Mendels – Okay, I miss understood. Joel Kohn – And the 74% is from the original square footage of the unit, not from the increase that was already approved. That would be less. Chairman McClernon – But it is the square footage that we have to address. Jay Mendels – And, again, the other units that are also being replaced, they are not going to two-stories, right? Joel Kohn – No. This unit is looking for the extra space because of their special needs child and their aid. Chairman McClernon – But there are other two-story buildings in the development.

No further questions or comments from the Board.

The meeting was opened up to the public for comment, but there was no public for this application.

A motion to close the public hearing was made by Cindy Ruff and second by Jay Mendels.
All 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 no
- (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 approve the requested variance was made by Phyllis Perry and second by Cindy Ruff.
2 in favor, 3 opposed (Jay Mendels, Chairman McClernon, and Sean Walker).

Joel Kohn – I don't want to speak for the owner, but if he was to only ask for a one-story with the same footprint, would that be something you would consider? Jay Mendels – No, for me it's the increase. Joel

Kohn – It will be the same as unit 14 and less than units 19 and 20 and those do not have a second story. Chairman McClernon – What was the size of 14 before they rebuilt? Joel Kohn – It was 1,512 sq. ft. Jay Mendels – I would then consider this an extenuating circumstance and being that it would fit in so well being the same size, I would consider the one-story a compromise. That way it will be the same footprint as the unit next door. Sean Walker – I would feel way better with that. Joel Kohn – So, would the Board consider resending their prior motion and make a motion to approve the 1,500 sq. ft. as a one-story only? That way we don't have to come back. It would be just granting a lesser variance. Paula Kay – That would be okay if the Board is amendable, but do you want to make sure with our client first? However, you are an authorized representative for the applicant and can ask the Board to act on a modified application. You can certainly do that and then if the applicant wants to come back in the future and ask for more, they can.

Sara Guttman the owner of unit 13 joined the meeting via Zoom.

Sara Guttman – As I believe Mr. Kohn has explained, the reason we need to do this addition is because we have a child that TBI and when we bought the bungalow, we did not know this. He has also now developed Chronic Lung Disease and he needs a full-time aide. We are not asking for the space for enjoyment purposes, this is something that unfortunately came our way and we are trying to accommodate his needs as parents. He now needs special equipment and machines that we did not anticipate and we were hoping the Town could understand our need for the additional space. We appreciate your time and I am happy I was able to get on and speak tonight.

Paula Kay – Maybe you can ask your client the questions now that they are in attendance. Joel Kohn – I don't know if you heard what the Board was recommending. Sara Guttman – Yes, I did. Joel Kohn – So, they are not willing to approve a second story and my question to the Board was that if you were amenable to only having one floor, would the Board resend their denial for the expansion and make a motion to allow just the expansion of the one-story. Sara Guttman – We were hoping for the extra space and was wondering if the Board would maybe reconsider allowing both stories. I have letters from the doctors with what my son needs and I can supply that if it helps at all. Maybe now that you know exactly why we need the extra space, you would reconsider your decision. Also, this doesn't set a standard for other units because all of my neighbors know about my son and understand our need. Chairman McClernon – Thank you and we appreciate your input. Joel Kohn – There were two yeses, we just need one more. Sean Walker – I would still be a no. Paula Kay – Do you then just want to make a motion to approve the one-story that way the family can at least have the additional space in the one-story? Because as it stands right now, they have no improvement outside of the approved 1,050 sq ft.

A motion to resend the prior decision resulting in the denial of the requested variance was made by Cindy Ruff and second by Jay Mendels.
All in favor, 0 opposed.

A motion to approve the requested variance for a one-story building expansion totaling 1,500 sq. ft. was made by Jay Mendels and second by Sean Walker.
All in favor, 0 opposed.

A motion to close the meeting was made by Jay Mendels and second by Cindy Ruff.
All in favor, 0 opposed.

Respectfully submitted,

Laura Eppers
Secretary
Town of Thompson Zoning Board of Appeals

DRAFT