

TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
March 12, 2024

IN ATTENDANCE: Richard McClernon, Chairman      Darren Miller, Alternate  
                          Cindy Ruff                                      Paula Kay, Consulting attorney  
                          Jay Mendels                                      Laura Eppers, Secretary  
                          Phyllis Perry  
                          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 January 9, 2024 minutes was made by Cindy Ruff and second by Phyllis Perry. All in favor, 0 opposed.

A motion to approve the February 13, 2024 minutes was made by Cindy Ruff ad second by Phyllis Perry. All in favor, 0 opposed.

Chairman McClernon appointed Darren Miller as a voting member for tonight’s meeting.

A motion to take the agenda out of order and move Garden Cottages to the bottom was made by Jay Mendels and second by Cindy Ruff. All in favor, 0 opposed.

**APPLICANT: FRASER ROAD PROPERTIES LLC**

334-336 Fraser Road  
Monticello, NY  
S/B/L: 10.-9-4  
Isaac Indig, Representative

Applicant is requesting an Area Variance from §250-16B of the Town of Thompson Zoning Code for (1) Accessory building closer to the road than the main building – which is not permitted. Property is located at 334-336 Fraser Road, Monticello, NY. S/B/L: 10.-9-4. In the Zone: SR with central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Isaac Indig – The applicant received this shed from his kids as a surprise gift and they just came and put the shed on his property. They didn’t know he needed a permit for it until the owner received a violation from the Building Department. He applied for a building permit and brought the Town all of the specs on the shed and was told that he would need to come to this Board for a variance. Chairman McClernon – Right, because it sits in front of the house. Also, it is only 10 feet off of Fraser Road and should have been placed in the back of the property and painted white to match the house. Isaac Indig – Now he

knows. Jay Mendels – Is there another place on the property it can be moved to? Isaac Indig – He told me that would be hard and asked to see if it can be approved the way it is. He was told that the main concern was the neighbors so he should see if anyone has a complaint. Chairman McClernon – Did we get proof of mailings for this? Laura Eppers – Yes. Chairman McClernon – Is there anyone on Zoom for this? Jim Carnell – It does not appear anyone wants to speak on this project.

The meeting was opened up to the public for comment. No public for this project.

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

Jay Mendels – If we approve this request, can we make it subject to painting it white? Paula Kay – Yes.  
Jay Mendels – Okay and clearly the neighbors do not have an issue with its location so I am okay with it as long as it is painted to match the house. Cindy Ruff – I agree.

No further questions or comments from the Board.

- (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; 3 voted no and 2 voted yes (Chairman McClernon and Darren Miller)
- (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 requested, subject to the shed being painted white to match the house, was made by Phyllis Perry and second by Jay Mendels.  
All in favor, 0 opposed.

**APPLICANT: IOSIF NEVELEV**

Lake Shore Drive E  
Rock Hill, NY  
S/B/L: 55.-6-3.8  
Yevgeniy Klinov, Representative

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Rear yard setback (Road Side) from required 40'-0" to proposed 30'-0" (2) Combined side yard setback from required 40'-0" to proposed 32'-9". Property is located on Lake Shore Drive E, Rock Hill, NY. S/B/L: 55.-6-3.8. In the Zone: SR with Central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Yevgeniy Klinov – I was here last year to get to get some variances to build my house and now the applicant has purchased a property by mine and asked me to build his house as well. Chairman McClernon – It looks like this house is set squared. Yevgeniy Klinov – This is like a double lot, so it is a

larger property. The applicant purchased the water lot and the one to the right of that and it is kind of an irregular lot. They had a survey done and the architect tried to get 17 feet from the property line. Jay Mendels – I don't see much of a choice here as this is a pie shaped property. To widen the setbacks, you would have to bring the whole house closer to the water and then you would need a variance for that. I would rather see it set back from the water. Unless, they build a pie shaped house, I don't think we can do anything about the side yard setback. Phyllis Perry – I have a question about the deck. In the picture submitted, it looks like the deck extends out to the side, but if you took that off and only had a deck in the back with stairs, that would increase the side yard a little bit. Yevgeniy Klinov – The back corner of the house would still be closer than that deck. Phyllis Perry. I see. Fair enough. Yevgeniy Klinov – And the small side deck is the main entrance and will just be a small landing with some steps. Phyllis Perry – I understand now. Darren Miller – I agree with Jay and don't see a better way to do this and I'd rather see it further from the water. Chairman McClernon – Does this property slop down towards the water? Yevgeniy Klinov – No, not really.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

**Rosette Wodanny**, residing at 205 Lake Shore Drive E – Stated she is the neighbor and is okay with everything being requested.

Paula Kay – I spoke to the neighbor adjacent to this property yesterday and they said they were going to join the meeting tonight, but I don't know if they are here. Jay Mendels – Did they give you any questions or concerns to relay to us? Paula Kay – There was just a concern in regards to the side yard setback on the side that borders his house. Jay Mendels – Well it sounds like the woman we just spoke with is the neighbor to the side. Paula Kay – Okay. Maybe it was her husband so we should be okay.

No further questions or comments from the public.

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

Paula Kay – I don't see an approval letter from the HOA for this and I thought they submitted something. Yevgeniy Klinov – I think Camille is on Zoom. Jim Carnell – Yes, she is. Paula Kay – I assume they are fine with it, but it would be good if we could get written permission for the record. Jim Carnell – Should we ask Camille now? Paula Kay – I would. Camille Johnson (President of Lake Louise Maria HOA) – I thought I sent a letter in stating that we were okay with this request, but maybe they didn't get it. This house is

very similar to every other house there on the lake front, so we were okay with it. I will send in another letter for your records. Chairman McClernon – Okay, thank you.

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

**APPLICANT: PUNKABOO PROPRTIES LLC**

15 Hoffman Road  
Monticello, NY  
S/B/L: 45.-5-10.2

Applicant withdrew their application.

**APPLICANT: DENNIS RIORDAN**

Lake Shore Drive E  
Rock Hill, NY  
S/B/L: 55.-6-3.24  
Joseph Irace, Representative

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Rear yard setback (Road Side) from required 40'-0" to proposed 24'-4" (2) Combined side yard setback from required 40'-0" to proposed 35'-0" (3) Front yard setback (Lake Side) from required 40'-0" to proposed 28'-10". Property is located on Lake Shore Drive E, Rock Hill, NY. S/B/L: 55.-6-3.24. In the Zone: SR with Central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

HOA approval was received.

Joseph Irace – I am here for both this lot and the next one as they are side by side lots. This lot is considered Lot #27 and is the smaller of the two lots, so requires a total of three variances. During our correspondence with the HOA, they asked if we could make the setback from the road 30 feet, instead of 40 feet. We were able to accomplish that by flipping the design around. Originally, we had 20 feet on this side yard and 15 feet on the other side, but by flipping it, and by virtue of the angle of the lot, we were able to get more space, so that's what we did. The HOA said that was acceptable, so we submitted an updated plan showing that and it ended up being the same variances we were asking for. This will be just a small cottage and we are happy to work with everyone and the neighbors to make it work.

Jay Mendels – So the rear yard setback you are asking for now is 30 feet, but was published and listed on the legal notice for 40 feet, right? Paula Kay – That is correct. Joseph Irace – The HOA and building department are okay with it, we just flipped the measurements around. Paula Kay – So the combined side yar is still the same? Joseph Irace – That is correct.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

**Peter Hirshman**, residing at 175 Lake Shore Drive E – Asked the below questions:

- Was I supposed to receive a legal notice, because I did not?

Jim Carnell – Yes, you should have if your property is within 300 feet of this one. Laura Eppers – Looking at the certified mailing slips, he did receive one. Paula Kay – We have the certified mailing slip here and it looks like it was mailed out on February 22<sup>nd</sup>. Peter Hirshman – I never received anything. Jim Carnell – Well you are here tonight, so you can speak your piece. The applicant has met their obligation and mailed the legal notice.

- Is this lot adjacent to his?

Joseph Irace – The best way to explain where the project is, as it does not have an address yet, is at the end of Nottingham Road. If you are driving down that road towards the lake, these two properties are right in front of you when you get to the end of the road. They are the two of the three empty lots there.

Peter Hirshman – Is this lot adjacent to the existing structure? Joseph Irace – There is a new house that was recently built to the left of this lot and a two empty lots to the right. Peter Hirshman – But there is not a structure to the right? Joseph Irace – There is an older house there. Peter Hirshman - I have lived here for three years now, so I think you have your bearing's wrong. To my left, facing the water, there are some vacant properties, probably three like you stated, and then the new house built only 2 years ago. Joseph Irace – That sounds correct. Peter Hirshman – So, is this property, that you are referring to as Lot #27, abutting a residential structure to its right? And then 2 more empty lots before the new house? Chairman McClernon – If you are standing on your deck looking at the lake, they are proposing to put houses on the 2 lots to the left of you. Peter Hirshman – Okay.

Paula Kay – Do you have specific comments on this application? Peter Hirshman – I wouldn't know because I don't have any information about it. Paula Kay – Everything was noticed and all documents are available for review on our Google Drive. Peter Hirshman – I didn't get a chance to see that. Where can I find that? Paula Kay – A link to the project can be found on the Town of Thompson website. The applicant properly mailed the legal notice to all of the adjoining property owners; not sure why you did not receive it, but we have proof of mailing. Peter Harshman – You mean proof that they went to the post office and mailed it? What does that mean? Paula Kay - Sir, I don't want to get into a back and forth with you, that is not what this Board is looking for. They want to find out if you have any comments on this application. Peter Hirshman – Well if I knew what I was commenting on, I would be able to say yes or no. I need more information. I did not receive any notice and happened to stumble upon this meeting while looking at the Town of Thompson's website. How do I get that information and time to comment? Paula Kay – Again, everything is online. You clearly found the application online, so if you want to take some time now and go online and take a look at the site plan while the Board discusses the application, then maybe you can come back and make your comment. Peter Hirshman – Who am I speaking with? Paula Kay – I am Paula Kay and I am council to the Board. We spoke before on another application. If you go to our website and click on Agendas and Minutes, the Zoning Board agenda will show up with a link to this application. That way you can see the survey and where the house will be located on the property, the floor plans, the legal notice with the requested variances, the mailing list, and the ZBA application. Peter Hirshman – I would like to request more time then just now to review everything. You can't give me 5 to 10 minutes to look at everything and make a determination. I need more time to do that. Paula Kay – That will be up to the Board, but in the meantime, if you would like to make any comments now, you certainly may. The Board is going to move on with their discussion and see if there is any other public comment. Peter Hirshman – I will just say that I don't think the architect is correct. He is saying that this property is abutting the new house, that is further down to the left. So, if that is what

he is saying, we are talking about a different property and I want to make sure we are talking about the same property. Joseph Irace – There are three vacant lots. We are not talking about the lot that is directly next door to the new house to the left, but the next 2 lots, that I guess would be between your house and that third empty lot. Peter Hirshman – So, we are currently talking about the middle lot? Joseph Irace – Yes, but we are proposing a small, cottage style house on both of them. They are only 30 feet wide, no bigger than anything else that is on the lake, are in the middle of the lot, and are the same distance from the road as the other houses there. They will fit in with everything that is there. If you could take a look quickly at what is online, you can see what they will look like and should be able to evaluate everything in just a few minutes. Peter Hirshman – 30 feet by what? Joseph Irace – They will be two stories with a total of 2,500 sq. ft. so they will have a 1,250 sq. ft. footprint with a small deck on the lake side and a little entry porch on the road side. Peter Hirshman – 2,400 sq. ft. is pretty big in this area. Is there a limitation on square footage? How does that work? Jim Carnell – No. Peter Hirshman – Really? Chairman McClernon – No, and it is a two-story house, making the total of 2,500 sq. ft. Peter Hirshman – So it will be 40' x 30'? Joseph Irace – Correct. Peter Hirshman – And this is the middle lot or the lot right next to me? Jim Carnell – Both of them, but this discussion is for the middle lot only. The next application will be for the lot next to yours. Joseph Irace – Right. We have two applications in, but we are going through them one at a time. Chairman McClernon – Just address your questions to the Board. Between your house and 163 Lake Shore Drive E, which is the house built a couple years ago, there are three vacant lots. The two they are looking to build on are the lot directly to your left, when looking at the lake, and the one next to that, or the middle lot. Peter Hirshman – So, nothing on the lot a butting the new house? Chairman McClernon – Correct. Phyllis Perry – So, if you go onto the Town's website and take a look at the plans while we continue to discuss this, you can come back on if you have any additional comments. Peter Hirshman – I would really like some more time. To give me that responsibility at this hour is really not fair. Jim Carnell – There are plenty of other people involved in this project and they are all here and so far, you are the only one who doesn't. The Board does have to move forward tonight, so you should take the opportunity to take a look at what is submitted if you are interested in doing so. Peter Hirshman – I just want to know what lot you are talking about? You are saying Lot #27, but aren't there two lots here? Paula Kay – You can look it up by the SBL, which is 55.-6-3.24, and the Board is now going to move on to see if there is any other public. You can raise your hand to come back if you have any comments after reviewing.

No further questions or comments from the public.

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

Chairman McClernon – Can we proceed with approving this now? Paula Kay – What I would advise you to do is review the second application and if anyone from the public has any specific comments, rather than questions, you take those comments at that time.

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

A motion to approve the requested variances, with the change to the proposed rear yard setback from 24.4 feet to 30 feet, was made by Jay Mendels and second by Phyllis Perry. All in favor, 0 opposed.

**APPLICANT: DENNIS RIORDAN**

Lake Shore Drive E  
Rock Hill, NY  
S/B/L: 55.-6-3.25  
Joseph Irace, Representative

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Rear yard setback (Road Side) from required 40'-0" to proposed 38'-6" (2) Combined side yard setback from required 40'-0" to proposed 35'-0". Property is located on Lake Shore Drive E, Rock Hill, NY. S/B/L: 55.-6-3.25. In the Zone: SR with Central W/S.

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

HOA approval was received.

Joseph Irace – This is what we are considering Lot #26 and is a little bigger than then the last lot we discussed. We had more space, resulting in only two variances being required. The HOA had no comments or issues with this proposal as we were able to be 38' off the road.

Paula Kay – Is this the middle lot? Joseph Irace – No, this is the lot right next door to the gentleman who was on the phone earlier. So, if he wants to know what lot we are discussing now, he can just look at his window and see it. Chairman McClernon – There are some pine trees in between so he may not be able to see it. Joseph Irace – True and we will not be touching those. Paula Kay – That is important to note. Is there a buffer of pine trees there? Joseph Irace – Yes. Paula Kay – Okay, I think you should note that and that those pine trees will remain. Joseph Irace – You can put that right in the minutes, but we wouldn't take down any trees that we didn't have to. Paula Kay –

Jay Mendels – They look to be similar houses. Will they both be built at the same time? Joseph Irace – Probably.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

**Peter Hirshman**, residing at 175 Lake Shore Drive E – Same neighbor that spoke on the prior/first application. Expressed that he still hasn't been able to review the documents on the Google Drive for either application and wanted more time to review and comment. After the Chairman explained again that he was noticed properly and had ample time to review the documents pertaining to these two applications and stated they did not want to hold up the application from proceeding, he had the below comments:

- Happy to hear that no trees will be removed and asked that that be a stipulation of any approvals. Although, the trees are bare for at least 15' from the ground up with no branches or leaves and therefore, do not provide any privacy or visible barrier.
- Stated the Board recently approved a variance for the house on the lot to the opposite side of him to build 11 feet from their shared property line and that neighbor proceeded to put three air conditioning condensing units in that 11-foot setback. Said this created a lot of noise in the summer and even though this proposed house will be further away than the other house, he is still concerned about the same thing happening there and causing additional noise. Asked that it also be a stipulation that they can not put an air conditioning system on the side of the house that faces his and if anything can be done about the other side.

Chairman McClernon explained that the Board cannot grantee his requests will be conditions of the approvals and that their HOA has approved the requests, as presented, so as long as they stay within the approved setbacks, the Board cannot dictate if they have an air conditioning unit. Peter Hirshman clarified that he is not asking they don't have one, but that they put it on the other side of the house, between the two house they are looking to build. Paula Kay advised that that would be an acceptable condition. Joseph Irace mentioned that they would be fine with both requested conditions and didn't have any problems with either of them. Chairman McClernon acknowledged that everyone is okay with the conditions so they would be fine. Peter Harshman stated that he then was okay the variances and had no more objection.

No further questions or comments from the public.

A motion to close the public hearing was made by Darren Miller and second by Cindy Ruff. 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; All voted no
- (4) Whether request will have adverse physical or environmental effects; All voted no
- (5) Whether alleged difficulty is self-created; All voted no

A motion to approve the requested variances, subject to leaving as many trees as possible as a buffer and the any air conditioning unit be installed on the right side of the house (when looking at it from the road or in other words, between the two new houses), was made by Jay Mendels and second by Phyllis Perry. All in favor, 0 opposed.

**APPLICANT: GARDEN COTTAGES**

Varnell Road  
 Monticello, NY  
 S/B/L: 18.-1-41.2  
 Joel Kohn, Representative  
 Marty Miller, Attorney



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.

This application was left open and is back tonight with an update.

Marty Miller – Garden Cottages has a fairly new HOA Board and it may not be important to you, but there is a big difference when working with the new Board compared to the old one. They are taking a different approach to try and resolve things and I think they are working hard to do that. Having said that, I think we all have to recognize that this facility has grown, perhaps unsupervised, over many, many years, with out regards to whose fault that may be. To bring this into the best compliance they can, they are working particularly hard. We know the Town issued stop work orders last year and the new Board has done everything within its powers to enforce that. There were people who bought units with the expectation that they can make changes and certainly without know on what needs to be done to make those changes, to the extent that things occurred “under the cover of darkness”, even though I’m sure the contractors did not work at night. However, they did work there on the offseason. To avoid that situation, the new Board in stalled cameras everywhere a few months ago. The cameras are connected to the internet so that if anything may happen, the Board members will know about it. They are hoping this will work as a deterrent and are doing their darndest to make some improvement and show they are trying their best to cooperating. Keep in mind that a lot of the work triggering some of these variance requests was done a long time ago and not since or during the time the stop work order was received. Sometimes it is difficult doe people to understand the definitions that are used in terms of calculating the square footage. People look at square footage as being the living space between the four walls and the roof, and some of these violations are for decks. Decks that are outside in a county setting where people want to enjoy the country. Another thing you should recognize is some of these changes were done during the period of Covid. People realized they wanted to stay in the Country the best they could so they started staying in these homes and realized they needed additional space to

do so comfortably. It is one thing to live there and enjoy it on the weekends and another thing to spend a whole summer of multiple weeks there. Having said that, I know that there have been calculations of the degree of percentages for variances and I can tell you that Joel has been working very hard with the HOA Board and the unit owners to try and come up with some potential solutions. So, at this point I would like to turn it over to Joel to discuss that.

Joel Kohn – Thank you Marty. Just to add to that and as I mentioned at the last meeting, a lot of these additions were done 10 or more years ago and people have since bought those units knowing these are the size of them. They didn't know that the work was done without a permit by the previous owner and it is difficult for the new Board to enforce the new owners, who bought their unit as it is, to tell them now that they have to take it down and make it smaller. So, that is a big challenge for the HOA Board. Like Marty said, they have working hard to accommodate everyone and ensure nothing else is going on there. During our discussions and meetings, they have come up with some possibilities, but mostly with the units that were done in the last year or two and got stop work orders. For unit 1/2, they have an addition on the back, that is proposed on the map, and a large porch in the front. They are willing to remove the large porch in the front which will reduce the variance request from 1,418 sq. ft. or 70.3% to 796 sq. ft. or 39.4%. Same goes for unit 3/4. They would reduce the porch changing the variance request from 1,460 sq. ft. or 98.6% to 927 sq. ft. or 62.6%. Unit 16/17 proposes to bring down their deck to make it a patio and that is a huge deck. This is actually the largest variance request and originally was for 2,117 sq. ft. or 109.6%. With the proposed modification to the deck, it would change to 636 sq. ft. or 32.9%. Unit 18/19 is willing to do the same thing and change their deck to a patio. That will reduce it from the original request of 1,200 or 64.9% to 969 sq. ft. or 52.4%. Those are basically what they have come up with that is somewhat reasonable. Again, they didn't really want to have to make these changes, but these changes are hopefully something that can be reasonably reinforce on the owners.

Chairman McClernon – The County has now put in a new feature on Connect Explorer and they overlay 2020 with 2023's flyover and if you take a look at unit 16/17, you can see everything that was added since 2020. You can also see the roof difference and it appears to be over the 600 sq. ft. they are saying was added. Jim Carnell – I know there were at least 7 or 8 additions. We kept posting it and we would go back a week later to see that they continued to work. I don't know exactly what those additions were, but I know we were out these at least a half a dozen times. Joel Kohn – That unit is proposing a dwelling expansion and a porch. Paula Kay – Just so we are all on the same page here, Garden Cottages is in court and I believe Marty is representing them there. Marty Miller – Correct. Paula Kay – And he is working with the Town Prosecutor. Marty Miller – Right and the matter is currently on hold pending the outcome of their application. Paula Kay – Once they make an application to the Board, they are stayed. Chairman McClernon – So, they are waiting on our decision? Paula Kay – Yes. Marty Miller – They also have an application into the Planning Board. Jay Mendels – It looks like they are changing the unit from 110% down to 32.9%. Chairman McClernon – Well, that is what they are saying, but if you look at what the County shows, it is a lot more than the 636 sq. ft. Jay Mendels – And it was already built, right? Chairman McClernon – Yes. Phyllis Perry – And it's not just a porch or a deck. Joel Kohn – There is more – There is a dwelling expansion that is shown on the site plan and a huge porch. The dwelling expansion a long with the new porch is a total of 2,117 sq. ft. Modifying the porch into a patio, changing it to and expansion of 636 sq. ft. to the building. Marty Miller – The square footage from the decking will be removed, but the addition will remain. Paula Kay – I think that even though a lot of these violations involve decks, there are several buildings that have multiple violation for building without permits. I think the Building Department is having some frustration because up until recently, they were not being listened to in any way. I'm not certain if you are asking the Board to act on anything tonight. Chairman McClernon – The addition that was put on that unit since the County last showed in 2020 is like 1,700

sq. ft. Joel Kohn – We can revisit that. Unfortunately, the County’s website isn’t working at the moment, so I can’t access it now. Again, our calculations are based on the recent survey and any available mapping they had done before, so there could be some minor differences in what was actually there before and what is there now. We are trying to compare everything to older surveys and get the most accurate information as possible. Chairman McClernon – To me even with that, it is still three times more than is allowed. Joel Kohn – It is twice as much now. Chairman McClernon – Well they are allowed 200 sq. ft. and they are three times more than that. Joel Kohn – Or 15%, which ever is greater and that is why we are going by the percentage and not the square footage. Chairman McClernon – We still don’t know what the previous square footage was. Marty Miller – We can look more into that, but we have done our best to lock it in and get an engineer plan for the entire project, which they have been lacking. Chairman McClernon – My thought is that they are bringing in contractor who are doing the work without permits, what kind of contractors are they hiring. My vote would be no. Phyllis Perry – My question would be on some of the other variances you are asking for, like the request for the addition between units 11 and 12. The proposed was an 81.8% increase, so personally I appreciate the fact that you are coming back with these four compromises and trying to make things work, but there are so many other things on this application that are big asks. Joel Kohn – Hershey is from the HOA Board and is on Zoom tonight, so I can let him speak as he can talk to specific units more than I can, but I believe 11/12 was an older unit. Paula Kay – It may also be very helpful to maybe label the map more clearly what year each addition was done. I think there is a real difference between something that happened in 2005 versus something that happened after 2020. Maybe also indicate which units have the violations that the Building Department has been issuing recently to no avail. I think those are different. As for the older ones, you have seen situations like this before where the applicant came in to try to clean up past bad behavior, and those may not have anything to do with the recent owners or Board of Directors. We, as a group, don’t really know when the older stuff happened and are saying it happened a long time ago, but I would like to see that. Joel Kohn – We can take another look and do our best to figure out what year each addition was built and try to get that on the site plan. Marty Miller – Truthfully, I don’t know if we are going to be able to tell. Paula Kay – I know, but anything you can find should help. Chairman McClernon – There is also renovations going on in some of the units that they never go permits for but tore out the walls. Marty Miller – There may have been some interior work done, but unfortunately there is no way to track that. Chairman McClernon – Well, some it has been started recently and stopped. Marty Miller – The answer is that everything that has been stopped, we have done our best to comply with and enforce those stop work orders. It has taken a great deal to do that because some people are just like to be independent, but this is a new Board and the changes and degree of cooperation have changed significantly. Chairman McClernon – When did the new Board form? Marty Miller – I am not exactly sure, but I think sometime late last summer. I don’t know if it was a full turnover, but I can tell you that the individuals that I have been working with are new. Paula Kay – Do we know when the most recent violations were issued? Jim Carnell – They have been issued since the new Board. Joel Kohn – What do you mean with the new Board? Jim Carnell – The work occurred last summer and the new Board was prior to that. Joel Kohn – The additions were done in December of 2022. Jim Carnell – So, the new Board would have definitely been aware of those violations, right? Marty Miller – No, the new Board came the summer after those violations. The latest series of violations were issued in and around December of 2022, the matters were before the court in I believe February, and the new Board came on after that. When the new violations came a long, I encouraged the old Board to engage Joel to help straighten everything out. Now that Joel is involved and there is a new Board, they are working incredibly hard to rectify what they can. Joel Kohn – They have spent quite a bit of time and money getting a new survey and site plan for the property, just to get to a spot where they can come to the Zoning and Planning Boards. Marty Miller – We had located, working with the Town, old engineered plans and I thought this could move along more quickly by having the old engineers

come back with updated plan. With some give and take they indicated that they were either not going to do it or that their plans no longer existed. You can question whether that is correct or not, but they were not providing them to us and we don't have a right to them and it was just by happenstance that we discover their existence. Basically, this new Board has to start off with a new slate, so when you say there may have been additional additions or changes that occurred over the period of time, we don't have the luxury of knowing that. The engineers nor the Town had any historical background on this property to any extent and we did not have the benefit of the prior plans that were drawn up around the early 2000's. I do remember seeing them though and they were incomplete. We are trying to make the best of what we have and I appreciate the irritation the Board feels, but we are trying to move forward from this point. Paula Kay – I think two things have to happen before this Board can really take any action. One is, get the site plan marked with what buildings have violations, so it is clear which buildings do and do not have violations, and the second thing would be, to the best of your ability, add the year of the additions. I also think it would be a good idea to sit down with the Building Department between now and the next meeting, and maybe even myself and the Town prosecutor, to make sure everybody is on the same page. Joel Kohn – That is fine. We will try to the best of our ability to do those things. We obviously know which buildings have the violations, so we can do that and we will do our best to note the years as well. Paula Kay – I think the overlay of the aerial views the County provides may be helpful. Joel Kohn – I don't have the ability to access what the Chairman sees, but maybe he can pull it up and we can take a screen shot I can use. We will take another look at the resources we can use and see what we can do.

Chairman McClernon – Did the new owners buy their units from the Board or an individual person? Joel Kohn – I do not know the answer to that. Chairman McClernon – Because that would be who is responsible for this mess. If the new owners bought it from the Board with the illegal addition, I think they should be going to them for some sort of compensation. It is not the Town's fault they bought them like that. Darren Miller – Is this a co-op? Marty Miller – Yes. Farren Miller – Then, there's your answer. Paula Kay – Right. Chairman McClernon – There isn't much co-op to it. We come upon this time and time again where people say they didn't know they needed a permit or even possibly a variance, but they didn't ask. Why would you come to a new town and just building without looking into it and I'm sure their home town requires the same. To me it is just complete disrespect that they have shown the Town over the year and we have to put a stop to it, but that is just mt opinion. With that, I think we need a motion to hold this open for another month, so that they can update the site plans with and come back to us.

A motion to hold this application open for another month, until April 9, 2024, was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

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

Respectfully submitted,

Laura Eppers

Secretary  
Town of Thompson Zoning Board of Appeals