

TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
May 14, 2024

IN ATTENDANCE: Richard McClernon, Chairman      Darren Miller, Alternate  
                            Cindy Ruff    Laura Eppers, Secretary  
                            Jay Mendels    Paula Kay, Consulting Attorney  
                            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 March 12, 2024 minutes was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

A motion to approve the April 9, 2024 minutes was made by Sean Walker and second by Jay Mendels.  
All in favor, 0 opposed.

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

**APPLICANT: MAXINE KAVLESKI – USE & AREA VARIANCE**

1132 Old Route 17  
Ferndale, NY  
S/B/L: 1.-1-33.1

Applicant is requesting a Use Variance from §250-30 of the Town of Thompson Zoning Code for (1) Installation of a billboard – not a permitted in the zone. Property is located at 1132 Old Route 17, Ferndale, NY. S/B/L: 1.-1-33.1. In the Zone: CI

Applicant is requesting an Area Variance from §250-30 of the Town of Thompson Zoning Code for (1) Area of a billboard from required 672’ to proposed 896’ (2) Distance between billboards from required 1,000’ to proposed 950’. Property is located at 1132 Old Route 42, Ferndale, NY. S/B/L: 1.-1-33.1. In the Zone: CI

Chairman McClernon read both legal notices aloud.

Proof of mailings were received.

Chairman McClernon advised that they will be reviewing the use variance request first as that would need to be approved in order to get and or review any area variances.

Paula Kay explained that there is a New York state standard criteria list and all items would need to be satisfied in order to grant the use variance. She then went over said criteria list:

- The applicant cannot realize a reasonable return on his/her property – this inability must be substantial as shown by competent financial evidence.
- The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- The requested variance will not alter the essential character of the neighborhood.
- The alleged hardship has not been self-created.

Maxine Kavleski – I was not aware that there were criteria that needed to be met. Paula Kay – If you are not ready tonight, the Board can adjourn your application, so that you may get prepared and submit any documentation supporting your request. Maxine Kavleski – I am here tonight, so I would like to see if we can make this work tonight. Paula Kay – You probably wouldn't want the Board to vote on this tonight because if they deny it, you are done. Jay Mendels – Right, and if you can't substantiate everything tonight, we cannot vote in your favor. Paula Kay – It is the use variance that proves to be difficult, the area variance is pretty easy and straight forward. By any chance, does this property border any other property that allows the use you are seeking? Maxine Kavleski – No, however, there are billboards both to the right and left of this property. One is approximately 2,500 feet away and the other is around 1,000 feet away. Therefore, I would fall within the 1,000-foot town requirement and the 500-foot DOT requirement for billboards. I did hear you guys mention that the existing billboard have been there for a while, which is true for these two, but this one is more recent. Jay Mendels – Did they just update something that was already there? Maxine Kavleski – That I am not certain of. I do know that it is a recent billboard and I can find out from the DOT if it replaced an older one. But as these are both in Commercial Industrial (CI) zones, I don't know why I would be denied. Jay Mendels – They could be pre-existing and now they don't fit with current zoning, which we are bound to when reviewing the request put in front of us. The burden would be on you to substantiate. Maxine Kavleski – I understand. As far as a hardship goes, this property is ideal for these billboards. I own the property on the other side of the highway as well, which was divided by the highway when it came many years ago, so I am also paying taxes on that side and it is completely useless. Chairman McClernon – Did you straighten that out with the County yet? Maxine Kavleski – Apparently the attorney contacted the title company and they have to correct the deed. In the meantime, I have a piece of property that is completely useless. There is a wetland on this property and a guardrail, so you cannot even access it. In my opinion that would be a hardship. I have tried selling this property numerous times and I could not because every time an offer was made, they would go to the Town to see if they could build, and they were told no. Jay Mendels – What were they looking to build? Maxine Kavleski – Somebody wanted to do landscaping and have there trucks there, but were told no, and some else was interested in doing a furniture store there, but you can't sell in this zone. Finally, I felt so bad for my client, that I agreed to buy the property with the idea of maybe eventually putting an office there. So, I would think that not being able to put anything on this property would be a financial hardship in itself. You cannot have billboard or sell anything in the zone, so what can you do there? Chairman McClernon – It looks like you can have an eating and drinking establishment, a service station, a hotel/motel, or even a funeral home. Maxine Kavleski – The grade of the property does not allow for most commercial uses and as for residential, no one is going to want to live there. There are broken bungalows across the street and an eye sore to the right, so I don't see anybody looking to live there or rent it. As far as putting an office there, that is going to be hard because you need a vehicle with 4-wheel drive just to pull in and I dropped 3 tons of stone in there, triaxles, there already. Really the best use for this property are the billboards. Cindy Ruff – What kind of billboards would you put there? For what purpose? Maxine Kavleski – One will most likely be for my real estate business. Paula Kay – The content of the billboards is something that won't affect this and should

not be discussed. Cindy Ruff – Okay. Sorry, this is new to me and I didn't know that. Paula Kay – That's okay. It is a free speech thing and it is the structure you would be approving. Jay Mendels – You mentioned there would be more than one billboard, will you be putting up another one? Maxine Kavleski – It will be a two-panel, "V" shaped billboard. Jim Carnell – Similar to the one up the road a little. Also, I had a discussion with Eric, who reviewed the submission, and when talking about two-paneled billboards or a "V" shape, it is the angle of the two panels that classifies it. Maxine Kavleski – Correct and we can change the angle to be whatever it needs to be. Jim Carnell – I don't remember the exact angle it has to be, but because of the lay of the land and the curvature of the highway, I think you were trying to get it a little tighter. That way it would be visible from both directions. But even if they were back-to-back, they would be considered two. Maxine Kavleski – And this would certainly not affect any one as there are no homes around there to view it. There are no businesses or homes across the highway either as it is mostly wetlands. So, no one will see these billboards unless they are driving up and down Route 17. Sean Walker – Do you have any pictures of the property? Maxine Kavleski – I have this printout which shows my property here and there other billboards to each side of me. I also have some pictures from the road, but they won't tell you much, but these are them. Phyllis Perry – Can you kind of point out everything on the printout? Maxine Kavleski – Sure. This is the existing, dilapidated cottage here and the billboard will go somewhere over here. Jay Mendels – Would you have to do a lot of tree clearing to make I visible from both sides? Maxine Kavleski – It is already partial cleared along the highway, so it wouldn't take much more clearing. Also, it is young growth and not a lot of big trees in there.

Chairman McClernon – Paula, we still need to see finances and everything else on paper, right? Paula Kay – Something. Perhaps what she is paying in taxes and other expenses would be helpful. Maxine Kavleski – As far as taxes go, there was a mistake when they filed the deed and due to the natural subdivision, my taxes were reassessed and increased. So, I'm not sure exactly what they are going to be going forward. Paula Kay – When did you purchase the property? Maxine Kavleski – On November 2<sup>nd</sup> of last year and it is just sitting there doing nothing. I cannot put an office there because like I mentioned the approach to the property is difficult and there are also power lines along the road. You can't move them or get any big trucks in there so the best use for this property is no Commercial Industrial at this time. Chairman McClernon – Okay, so you will come back to us with your figures and information supporting your case. Maxine Kavleski – What exactly do you need to see? Paula Kay – We can't necessarily give you legal advice, but you need to provide some sort of documentation going through the criteria we discussed, including the last one talking about self-created. Jay Mendels – That is important. Maxine Kavleski – Okay and essentially you are saying because I chose to purchase this property knowing it was pretty much useless, that this is self-created. Is that what you mean? Jay Mendels – Well you would have to prove to us the opposite. Maxine Kavleski – Okay, but I would just like to point out again, from a real estate broker's point of view, that this property has been on the market for over two years and we could not sell it because everyone was being told no to what they were looking to build. Because we couldn't get it sold, the owner was willing to reduce the price drastically so that I could buy it. If that is not a hardship, I don't know what else would be. Jay Mendels – That would support one of the criteria and we would need you to prove your case on all of them. Phyllis Perry – What was your original plan when you first purchased the property? Maxine Kavleski – I was originally hoping I could bring in some fill and be able to use it as a real estate office. Then I realized after getting the three triaxle loads of stone that it didn't even put a dent in the property and the eye sore next door and thought that the best use of the property would be for some billboards. I see it as a financial hardship because my hands are tied. Phyllis Perry – The person you bought it from must have had similar issues. Maxine Kavleski – Yes and he is an architect. It was in his family for 40 or 50 years so it was left to him and he really had no use for it. Plus, his wife didn't want to come up and stay there

because of the noise from the highway. The property is extremely limited. Chairman McClernon – If she supplied figures showing the financial burden of having to go with a permitted use, that satisfy one of the criteria. Paula Kay – Yes, it certainly would. Chairman McClernon – Okay, so you could bring that information back to us as well. Maxine Kavleski – Okay, but what kind of numbers are we talking? If I can show it would cost another \$10,000 in fill to be able to access the property, are you going to tell me to fill it in and forget the billboards? I’m just trying to understand where we are at here. Chairman McClernon – It certainly could go that way, but we would have to see the numbers you come back with. Paula Kay – And how you kind of document everything the criteria us looking for. Maxine Kavleski – At this point have I met most of the criteria? Which numbers do I still need to work on? Cindy Ruff – As we cannot advise you, I would say that you should work on all of them. It would be up to you to go through the list and bring us whatever documentation you feel supports your request. Maxine Kavleski – Aside from the numbers I think I have made my point pretty clear. Can you see anything else I should work on? Paula Kay – I think Cindy was pretty clear and accurate with what she just said. If you want you can document everything you said tonight and you can go through all of the criteria and give the Board any information you think they might need to make a determination in your favor. Maxine Kavleski – Okay so you are really just after numbers because I told you everything else already. Sean Walker – You told us everything and now we need you to put it on paper so we have written documentation. You explained it and now we need to see it. Maxine Kavleski – Okay. So, how do I get on the agenda for next month? Chairman McClernon – We are going to make a motion to hold it open so all you need to do is show up. Maxine Kavleski – Okay. Paula Kay – We should make sure there is no public here for this application first. Chairman McClernon - Okay.

The meeting was opened up to the public, but there was no public for these applications.

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

A motion to hold both applications open for a month, until the June 11, 2024 meeting, was made by Jay Mendels and second by Sean Walker.  
All in favor, 0 opposed.

**APPLICANT: DTJS HOLDINGS**

884 Old Route 17  
Harris, NY  
S/B/L: 4.-1-28.4  
Darren “Bobby” Mapes, Property Owner

Applicant is requesting an Area Variance from §250-9 of the Town of Thompson Zoning Code for (1) One side yard setback from required 35’ to proposed 6.7’ (2) Combined side yard setback from required 70’ to proposed 41.7’. Property is located at 884 Old Route 17, Harris, NY. S/B/L: 4.-1-28.4. In the Zone: HC-2 no Central W/S

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Chairman McClernon – Go ahead and explain to us what is going on. Bobby Mapes – I actually own the adjoining property and there is a fence that has been on the property since I purchased it many, many years ago that I always assumed ran down the property line. So, I built my pole barn in accordance to that, only to find out that the fence is not on the property line and goes kind of at an angle, encroaching onto my other property. Jay Mendels – You didn't have a survey? Bobby Mapes – It was surveyed about 17 years ago when Glenn Smith originally did the site plan. It was on the site plan but we really hadn't seen that it was going to encroach or effect it when everything was done. We obviously had to go in front of the Planning Board to add the pole barns and a small addition to the back of the building, which was approved. Then when we put it up Logan asked for a new survey, which I had no problem doing, and that's when we realized that the pole barn was actually in the side yard setback. Chairman McClernon – So, the original. Incorrect site plan was approved by the planning Board. Jay Mendels – Well, it was approved but they thought the property lines on the site plan were accurate. Bobby Mapes – Glenn did the original site plan when I originally built the building and he went off of an existing survey. Jay Mendels – And that showed the fence running along the property line? Bobby Mapes – Well it wouldn't have showed the fence because it was on a separate parcel, I believe. Jay Mendels – But it did show the property lines for this parcel, so did it show the property line being straight or going at an angle? Bobby Mapes – Quite honestly, I wouldn't know as I haven't seen the survey in 17 years. Jay Mendels – And the Planning Board didn't need to see that? Jim Carnell – The Planning Board went off of the site plan, which was done based on the original survey. Jay Mendels – So, it was surveyed incorrectly? Bobby Mapes – I'm not saying that because there are no survey stakes out there so I don't know that for sure. The site plan was done off of the survey and it doesn't show the fence line, so I just assumed, because I didn't go back to the survey, that the fence line was the property line. But that was not the case. Cindy Ruff – Is this the fence here on the survey that was provided to us? Bobby Mapes – I don't know how to tell if that is the fence or not. Cindy Ruff – But is the fences angled like this line shows? Bobby Mapes – Yes, but looking at it from HARRS Road it looks straight because it runs perpendicular with the road. Chairman McClernon – There is a note on the updated site plan that states that it was done in accordance with the original survey. Jay Mendels – And the building itself is just a pole barn for parking trucks and doesn't have any utilities, right? Bobby Mapes – That is correct. Cindy Ruff – Are there doors on it? Bobby Mapes – No doors. Cindy Ruff – And you are going to leave it that way? Bobby Mapes – For now. There are gasoline trucks parked under it, so if I do enclose it at any point, it would only be for a couple bays as the fumes need to be able to escape. It will never be all seven for safety reasons.

No further questions or comments from the Board at this time.

The meeting was opened up to the public for comment.

**Maria Zeno**, on behalf of Advanced Technologies Machining Inc. – Explained that her clients own the triangular piece of land that touches the two pieces the applicant owns and that they object to the application as they did not receive notice for the public hearing held by the Planning Board. They didn't know that the pole barn was already built and thought that's what the legal notice they received for night's meeting was for, until she pointed out to them that this was an "as built" survey. The owners are concerned that if they want to build on their property in the future, the pole barn is open and flammable and the fumes from the trucks will affect their property significantly.

Jay Mendels explained that this meeting is for the approval of the area variance and not for the pole barn itself and Chairman McClernon added that the side of the pole barn facing their property is enclosed.

Also, Paula Kay looked up the proof of mailings from the Planning Board public hearing and advised that a legal notice was certified mailed to Advanced Technologies Machining Inc. on March 28, 2023.

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.

Jay Mendels – When was this built? - Over the winter. I think in January. Paula Kay – And when did they receive Planning board approval? Jim Cranel – It is stamped on the approved plan and it looks like May 12, 2023. Jay Mendels – Okay and the only objection we got was for the existence of the pole barn itself, and not for the distance it is from the property line. Chairman McClernon – And it is only a small piece of their property that adjoins the applicant’s property and the applicant owns the other properties on both sides of this. Phyllis Perry – Plus it is the back side of the pole barn that faces them. Cindy Ruff – I agree with all of that and will add that the trucks were always housed on this property, even before the pole barn. So, that part hasn’t changed.

No further questions or comments from the Board.

- (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 yes
- (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 voted yes (Jay Mendels)

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

**APPLICANT: FRANK MURATORE**

354 South Shore Drive  
Rock Hill, NY  
S/B/L: 66.-30-4  
Tim Gottlieb, Representative

Applicant is requesting an Area Variance from §250-9 and 21B(4) of the Town of Thompson Zoning Code for (1) Combined side yard setback from required 50’ to proposed 42.5’ (2) Increasing a non-conforming structure – not permitted. Property is located at 354 South Shore Drive, Rock Hill, NY. S/B/L: 66.-30-4. In the Zone: RR-2

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Tim Gottlieb – So there was a discrepancy here on my part and the original plans that were approved didn't show the correct lay out of the building. Ww realized this when the building plans were submitted to the building department and are here tonight to fix it. We are just asking for an additional 6 feet. Jay Mendels – And nothing else has changed, right. Tim Gottlieb – Right. We were just missing the 6-foot addition off of the side here in our original plans. Paula Kay – And when we looked back at the minutes, there was no public comment and the HOA had no issues. Jay Mendels – But it was all re-noticed because of the change? Paula Kay – Correct.

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 Phyllis Perry and second by Jay Mendels.  
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 yes

A motion to approve all variances as requested was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

**APPLICANT: SEGUNDO MURUDUMBAY MONTERO**

81 Fairground Road

Monticello, NY

S/B/L: 30.-3-10

Applicant is requesting an Area Variance from §250-7 and 11 of the Town of Thompson Zoning Code for (1) One side yard setback with W/S from required 15' to proposed 6' (2) Combined side yard setback with W/S from required 40' to proposed 26.9' (3) Front yard setback with W/S from required 40' to proposed 33'. Property is located at 81 Fairground Road, Monticello, NY. S/B/L: 30.-3-10. In the Zone: SR with Central W/S and HC-2 with Central W/S

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

The applicant speaks Spanish so an interpreter was called for assistance translating.

Segundo Murudumbay Montero – I am here tonight to talk about the porch that was built on the front of my house. Chairman McClernon – It is my understanding that you got a permit from the Village to build it. Segundo Murudumbay Montero – Yes, Mr. Gary from the Village gave me permission to built it and now the Town is telling me that I didn't have any permission.

The call with the interpreter was dropped. Mr. Murudumbay Montero said that he speaks a little English and they could try to proceed without an interpreter.

Segundo Murudumbay Montero gave the Board a copy of the building permit he was given from the Village.

Chairman McClernon – Your property is in the Town of Thompson and not the Village of Monticello, so they should have never issued you a building permit. Segundo Murudumbay Montero – I am new here and have only been in the area for two years, so I went to the Village office by the police station and talked to Mr. Gary to see what I need to do. Chairman McClernon – Gary Ivry? Segundo Murudumbay Montero – Yes, and I talked to him back when I bought my house in December. I told him I didn't know where I needed to go and he told me there, so I put in an application. He called me and said that he will meet me at my house with the permit in exchange for the money. I put the permit in the window and a couple weeks later I got a letter from you guys. That's when I called the Town and was told that I needed permission from them, not the Village. Paula Kay – To help out a little, the applicant now has application in with the Town that resulted in him needing these variances. Jim Carnell – Right and I think that if we can get past these variance requests tonight, Mr. Segundo will be in good graces with everyone. Paula Kay – Okay, so maybe we can check to see if there is any public comment.

The meeting was opened up to the public for comment.

**Willam B. McNeal**, from church next door – Wanted to know if the application was for permission to expand into the side yard.

Jim Carnell explained that the addition has already been built so what he sees now is it and Chairman McClernon added that the side addition only came out as far as the rest of the house, so they are not any closer than before.

Mr. McNeal was satisfied and did not object.

Sean Walker mentioned that his parents live right across the street and have no objections either.

No further questions or comments from the public.

A motion to close the public hearing was made by Jay Mendels 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; 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 yes



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

**APPLICANT: BURIM SELIMAJ**

Adams Road  
Rock Hill, NY  
S/B/L: 25.-1-49.8

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 dwelling – not permitted. Property is located on Adams Road, Rock Hill, NY. S/B/L: 25.-1-49.8. In the Zone: RR-1

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Chairman McClernon – Tells us why the garage is where it is. Burim Selimaj – Because of the garage doors. How the driveway is set is that when you get to the main house, you want to be able to back up into the garage. I don't really know how to explain it better. Phyllis Perry - Would it help to look at the site plan? Burim Selimaj – Yes. In this garage here are two garage doors and the end of this garage was touching this garage, so there was not enough space to pull your car into the drive way, up to the garage, and then back into one of those garage doors. So, to fix that, I shifted the detached garage forward. Chairman McClernon – So there are two garages, one attached to the house and one detached and off to the side? Burim Selimaj – Yes and there wasn't enough room to pull up to the garage attached to the house and then back into the garage detached from the house. Chairman McClernon – Okay. When you were here before for the height of the detached garage, you told us that it wouldn't be seen. Burim Selimaj – You cannot see it if you are coming down the road from this side, but you will be able to see it from the other side. Jay Mendels – I think this picture here was taken from the road. Chairman McClernon – It was. Jay Mendels – So, you can see it from the road. Burim Selimaj – Only from the one side. Phyllis Perry – So, there are trees along this side. Chairman McClernon – Yes, they are in a row down the side there. Jay Mendels – It appears to be mostly even with the house and the garage doors are now even with the garage doors on the house, right? Burim Selimaj – Correct. Jay Mendels – How much does the detached garage extend past the house? Burim Selimaj – Around 7 to 8 feet. Jay Mendels – I think one of our concerns is that you wanted the height variance and we granted that because you said it wouldn't be visible to anyone else. Burim Selimaj – I don't think I said it would be visible. Chairman McClernon – That's what it says in the minutes from that meeting. Burim Selimaj – You can see it from one side, but not the other. Jay Mendels – When it is all finished, will the exterior of the house and the garage be the same? Burim Selimaj – Yes, the same stucco and stone as the house and it will be the same design too. Jay Mendels – And the driveway will come up between the two of them? Burim Selimaj – Exactly.

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 Sean Walker. 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 no

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

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

A motion to approve the variance as requested 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

This application was held open from previous meetings.

Chairman McClernon explained that the applicant wouldn't be ready to come back until the July meeting.

A motion to keep the application open until July 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