

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
June 11, 2024

IN ATTENDANCE: Richard McClernon, Chairman Darren Miller, Alternate
Cindy Ruff Dana Heimbach, Alternate
Jay Mendels Paula Kay, Consulting Attorney
Sean Walker Laura Eppers, Secretary
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 hold the May 14, 2024 minutes over until the next meeting was made by Cindy Ruff and second by Sean Walker.
All in favor, 0 opposed.**

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

APPLICANT: MAXINE KAVLESKI – USE & AREA VARIANCE

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

Both applications were held open from last month’s meeting.

Maxine Kavleski – Last time I was here the Board prepared me a little better, thank you for that, and asked me to bring in some documentation with estimates and thing like that like to prove my hardship to meet use criteria.

#1 - The applicant cannot realize a reasonable return on his/her property:

Maxine Kavleski - I took a picture of the grade of the property for everyone to see. You can see the road above and what I would have to bring in just to access the property, which would amount to about 10,000 cubic yards of fill. Jay Mendels – And you said you have already dumped some in there, right? Maxine Kavleski – Yes, three triaxles. Which didn’t even make a dent in the grading. Chairman McClernon – Where exactly did you put those because I was out there the other day and didn’t see anything? Maxine Kavleski – I know. It pretty much sank right into the ground because it is a mud hole. I brought with me two estimates for fill; one for \$225,000 and the other for close to \$300,000. Jay Mendels – That is the cost just for fill? Maxine Kavleski – Yes. Cindy Ruff – Is the house in this picture the house that is on your property? Maxine Kavleski – No. That is my neighbors house across the street. I am just showing you the pitch. Jay Mendels – So there is a road up here in between? Maxine Kavleski – Yes, right above the grass knoll. As I mentioned before, this property was on the market for just about 2 years when I purchased the property. There were 3 different offers at asking price, but no one was able to do anything with the property, so they fell through. I brought as evidence one of the full price offers from H. S. Enterprise, who is a trucking company and they couldn’t even do anything with the property.

#2 - The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood:

Maxine Kavleski - One of the other things I came across was that there are NYSEG power lines that run behind the property and they have a 30- or 50-foot easement; Mike Taggart couldn't tell exactly and it is not on my title report. So, in order to do something with the property, you have to bring in fill just to get any truck in there and the problem is that those power lines are too low. I called NYSEG the day after our last meeting, but nobody has come out yet. They told me they have field workers that were hurt on the job and it would take them several weeks to get out there to give me a price on what it would cost to raise them. I asked an electrician in the meantime and I was told it would be a minimum of \$50,000 as they would most likely need new poles. It is my property that was mainly affected by this due to the placement of the poles, which you can see right here along with the easement. So, you can't get a truck in there, the lines are too low, and you can't build within the easement; that in itself is proof of hardship in my opinion. As far as using the property for another, allowed use, such as a bed and breakfast or a hotel, the power lines would prevent that.

#3 - The requested variance will not alter the essential character of the neighborhood:

Maxine Kavleski - I took photos of my neighbor's property, which has a bunch of shipping containers, construction debris, and some broken bungalows. So, if anything, this will not hurt the character of the neighborhood; that's for sure. There are debris piles that are about as tall as me and if they catch fire, my place would be burned down in about 5 minutes. Chairman McClernon - Is this the same house across the street? Maxine Kavleski - No, this is the neighbor to the right of me. Across the street is bungalows and to the left of me is about 25 porta potties. So, I really don't think a billboard is going to hurt the character of the neighborhood.

#4 - The alleged hardship has not been self-created:

Jay Mendels - You bought the property knowing all of this. Maxine Kavleski - I bought the property in hopes to put an office there and didn't realize it would be such an issue getting access to it. Since I purchased it, there have been a number of people who got stuck there trying to access it. Prestige has made money off of some of those people. It wasn't until after dumping 3 triaxles of stone in there and noticing that it didn't even make a dent in it, that I realized exactly how much would be needed just to access the property. Chairman McClernon - How did you get the triaxles in there? Maxine Kavleski - They backed the dump truck up as far as they could from the road and then used a John Deere tractor to bring it all in. Chairman McClernon - I don't understand how they could have backed the trucks in even a little bit. I was on that road the other day and I didn't see anyway. Maxine Kavleski - It was tough and that is why I am saying the approach to the property is awful. Even as an office, it is going to be a nightmare.

Paula Kay - It sounds like you have certainly done your homework. I just want to clarify that you are saying that if the property were to be used as any of the permitted uses, it wouldn't make sense financially? Maxine Kavleski - Absolutely. Paula Kay - Okay. Maxine Kavleski - We are talking a minimum of \$250,000 to \$300,000 just to fill it in, plus the cost of the electric lines.

Chairman McClernon - How are they going to get the area where you are going to put the billboard? Maxine Kavleski - That area is down by the highway and I can get a tractor in from there. Chairman McClernon - Is that the state? Jim Carnell - Yes, so she would need to get a road access permit from the DOT.

Jay Mendels – Do you still have hopes of doing something else with the land in the future or just have a billboard on there? Maxine Kavleski – Not at the moment. I have to wait for NYSEG to get back in touch with me to see what kind of numbers I am looking at. At the moment, this is about the only thing I can use the property for.

Chairman McClernon – Is the property dry from where the electric lines are back to the highway?

Maxine Kavleski – Not really. In fact, if you drive by you will see that only part of it is mowed because the rest is pretty wet. Apparently there used to be a lake across the street that drained down towards my property, so water just runs onto my property. Jim Carnell – I believe there is a culvert on the county road that crosses from one side of the road to the other for that reason. Chairman McClernon – I notice that both properties to the side of you have pretty steep driveways going down into their properties. Maxine Kavleski – The property to the right of me actually has their parking up top by the road. He always has like a perpetual barn sale going on there. It is an old farm house with a barn and there is always junk stored and construction debris everywhere. There is also a huge brush pile of pine that was cut down when that the previous owner of my property asked him to because there were branches hanging over the property line and over the top of the cottage. They were never cleaned up and it is now so dry and close to my property that if it catches fire, the fire department will not be able to get there in time to prevent it from spreading to my property. I tried sending him a certified letter asking him to clean it up, but I did not get a response. The other side of me is some sort of a warehouse, but I have never been down there to know for sure. Chairman McClernon – And then the bungalows? Maxine Kavleski – Right, a little further down is the bungalows. And like I said, everything is an eye sore when you drive through there.

Paula Kay – I think we are straying a little bit from the criteria and should have a little bit more of a discussion on the self-created portion. Jay Mendels – Okay. Maxine, do you have anything else you would like to add in regards to the self-created portion before we go through the criteria? Maxine Kavleski – I'm not quite sure what else you want me to explain. It's not like I built a structure that wasn't permitted and now I'm asking you to allow it. I didn't create any type of hardship as far as I am aware. I just purchased the property in hopes to be able to put a real estate office there. Come to find out that this is why the architect sold the property to me. Nobody seems to be able to do anything here. Now, I was aware that I had this listing for a couple of years and that they did come across several problems, but I was hoping to be able to you with the Town and find some type of solution here. If I couldn't sell the property, what is anybody else going to do with it. I have proven in every kind of way that there is nothing but issues with this property every which way you turn. Chairman McClernon – It seems that you couldn't sell it for two years and you still bought it knowing the issues. Maxine Kavleski – Well I bought it in hopes of using it for an office location. Chairman McClernon – I feel that hardship was pretty much self-created by yourself. Paula Kay – I agree. Maxine Kavleski – So, what do you do with a property like this where you cannot do anything else? Chairman McClernon – Because it is a use variance the state requires all of the criteria be passed. Maxine Kavleski – Then I would say in regards to the statement that I do not have an additional \$300,00 to sink into the property. I bought it in hopes to use it as a real estate office without realizing exactly what it would cost to make it useable. Chairman McClernon – Does that change anything, Paula? Paula Kay – I am looking something up. I am really trying to help you out here Maxine, so I am trying to see if there is anyway around the self-created issue here. Let's see, the permitted uses were the same at the time you bought it as they are now, there wasn't a substantial sum spent on remodeling for a use not permitted by zoning, and the property wasn't received through inheritance, court order, or divorce. You technically bought it on the market. Maxine Kavleski – But what happens if you buy a property with an easement running through it, that the title search didn't show and the surveyor can't even tell you how wide the easement is.? I can't really do

anything with this property. There is an easement, half of it is wet, and you can't get in and out of the property. Paula Kay – That's getting a little closer. It may be as close as you get and it is up to the Board to determine whether they feel it is self-created. I would argue that you did your due diligence. You hired a professional surveyor and a title company and after they completed their review, you determined that you were unable to do so without sending an inordinate amount of funds. That would be my argument if I was you. Maxine Kavleski – Okay, what she said. Darren Miller – Is the property wet year-round to the extent that you are saying? Maxine Kavleski – Unfortunately, yes. Darren Miller – Okay, because that could change depending on what time of year the survey and title search were done. Maxine Kavleski – I believe I got it in November, so the survey was probably done, during the fall. Darren Miller – Okay. Maxine Kavleski – And there were also so issues with the title that were not my doing. Darren Miller – It could have been dryer that time of year when they did this then it would have been in spring, right? Maxine Kavleski – That is a possibility. Chairman McClernon – But when you bought it, that steep bank was there, right? Maxine Kavleski – Yes, it was. Chairman McClernon – With no access? Maxine Kavleski – Well, let me explain a little better what had happened. The gentle man who owned the property very rarely ever came to the property, so there weren't really any tracks going in or out. But, once people started showing up the property, to do surveys and that kind of stuff, we started to notice that everyone was sinking in the mud. Chairman McClernon – But how did you expect to access the property with that steep bank there? Maxine Kavleski – - You can get into the property, getting out is the problem. You have to have a 4-wheel drive and even then, without good tires, you are not getting out. Like I said, Prestige has towed quite a few cars out of there already.

No further questions or comments from the Board.

Chairman McClernon – Should we open this up to the public now? Paula Kay – I believe you closed the public hearing for this last meeting. Chairman McClernon – Okay, then we will go through the criteria.

- (1) The applicant cannot realize a reasonable return on his/her property – this inability must be substantial as shown by competent financial evidence; All voted yes
- (2) The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood; All voted yes
- (3) The requested variance will not alter the essential character of the neighborhood; All voted yes
- (4) The alleged hardship has not been self-created; 4 voted yes and 1 voted no (Chairman McClernon)

Chairman McClernon – Okay. The vote was in your favor, so we can grant the variance. Next, we will move onto the area variance.

Jay Mendels – Tell us again why you need these variances. Maxine Kavleski – So, the distance between billboards is not really an issue. I have the space. Originally when I drew a sketch of the sign, I drew it more towards the middle, but I have plenty of room to shift it over so that there is enough space between all billboards without causing any other issues. The DOT only requires 500 feet, but the Town requires 1,000, so there will be no issue meeting both requirements. Jim Carnell – I will say that when Eric was calculating the variance request, he was using the location Maxine marked on the sketch and Pictometry to determine the distance between the two billboards. So, if it can be shifted, I think the distance is a moot point. Jay Mendels – But, you can definitely get the distance you need on both sides? Maxine Kavleski – Yes. I actually drove it and it was over the 1,000 feet. Chairman McClernon –

Pictometry is sometimes not exactly accurate because of the curvature of the earth so that could be. Jim Carnell – Right. We used what was provided to calculate what was needed to be noticed, but at this point, I don't think it is necessary. Jay Mendels – So, how do we handle that at this point? Does she just withdraw this variance request? Maxine Kavleski – I'm not sure, but I have the room. Jay Mendels and you would be committed to putting it the 1,000 feet away? Maxine Kavleski – Yes. Chairman McClernon – We can just make the approval subject to that.

Chairman McClernon – Now, the size of the billboard. Jim Carnell – We calculate that based off of road frontage and the square footage of the billboard. Maxine Kavleski – And I guess the way the Town views it is that it is two signs, so it is really 504 sq. ft. per sign. Jay Mendels – Understood and you wanted them to be in a "V" shape so that they could be seen from both sides? Maxine Kavleski – Correct. Jim Carnell – There is a max on the angle that the "V" can be at and I think she wants to make them wider because of the elevations at that location. That way they can be seen from both directions. Maxine Kavleski – And I can also work with you on that. Jim Carnell – I think the max is 45 degrees and the proposed was a little wider than that. Maxine Kavleski – Correct. Jaymendels – But, at the proposed angel, it would be visible from both directions? Maxine Kavleski – Yes.

No further questions or comments from the Board and the public hearing was closed previously.

- (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 the area variances, subject to the minimum distance between billboards being 1,000 feet, was made by Jay Mendels and second by Cindy Ruff.
All in favor, 0 opposed.

APPLICANT: PUNKABOO PROPERTIES LLC

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

Applicant is requesting an Area Variance from §250-7 & 21B(4) of the Town of Thompson Zoning Code for (1) Front yard setback with W/S from required 40' to proposed 18' (2) One side yard setback with W/S from required 15' to proposed 6' (3) One side yard setback with W/S from required 15' to proposed 12' (4) Combined side yard setback with W/S from required 40' to proposed 18' (5) Increasing a non-conforming – not permitted (6) Percent of lot coverage from required 20% to proposed 23.5% . Property is located at 15 Hoffman Road, Monticello, NY. S/B/L: 45.-5-10.2. In the Zone: SR with Central W/S

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Chairman McClernon – Can you explain your new plans to us? Carol McEneaney – My new plans are to rebuild basically within the existing foot print, but squaring it off and evening it out with the house next door. Jay Mendels – So that they will run parallel? Carol McEneaney – Yes. Jay Mendels – And the revised design takes into account the sewer line and easement. Carol McEneaney – Yes. Jay Mendels – So you made the whole thing smaller than what you were originally proposing? Carol McEneaney – Correct. Chairman McClernon – It looks good. The old side yard setback, on the neighboring house side, was 3 feet from that house and now it will be 6 feet, so that is an improvement. The front yard setback was 18.5 feet and now it will be 18 feet, which is decent. The other side yard setback was 14 feet and now it will be 12 feet, so that is a little bit less. Plus, you are staying out of the sewer easement.

Jay Mendels – Just so we know, what will the total square footage be? Carol McEneaney – It will be a 31' x 31' structure.

Chairman McClernon – At the back of the property, on the Sackett Lake side, there is a little square there that looks like it is in the easement. Carol McEneaney – I believe that is a concrete platform. It is existing from the previous structure and was like a patio at the entrance of that house. Chairman McClernon – It may be a problem if we have to tear it up to get to the sewer line. Can we approve this with that there? Jim Carnell – Yes, because it is pre-existing. And it would be easy enough to dig up if need be. Chairman McClernon – Okay. I just wanted to make sure it wouldn't be a problem in the future.

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

The meeting was opened up to the public for comment.

There was no public turnout for this application, however there was written comment received that Chairman McClernon read aloud.

Steven Einhorn, property owner of 9 & 11 Latt Lane:

https://drive.google.com/open?id=1bn6WOLaDhNE8nnH8M7FATpH8h366BiBK&usp=drive_fs

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 no

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

APPLICANT: STANISLAW WISZKOWSKI

Starlight Drive

Monticello, NY

S/B/L: 57.-2-28

Bren Salamon, Sole member of Starlight 8, LLC

Applicant is requesting an Area Variance from §250-9 of the Town of Thompson Zoning Code for (1) One side yard setback from required 20' to proposed 17' (2) Combined side yard setback from required 50' to proposed 27'. Property is located on Starlight Drive, Monticello, NY. S/B/L: 57.-2-28. In the Zone: RR-2

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

This property was recently purchased by Starlight 8, LLC, however the legal notice listed the owner as Stanislaw Wiszkowski still as the County records have not been updated yet. Paula Kay pointed this out and asked the applicant to clarify who the current owner is and his relationship to the corporation. Bren Salamon confirmed that the current owner is Starlight 8, LLC. and advised that he is the only member of the LLC. Paula Kay asked that the ZBA application on file be updated to reflect the current owner.

Chairman McClernon – So, we are back here tonight because the applicant is looking to change original side yard setback variance that we recently approved. Cindy Ruff – Wasn't there some sort of an issue with an apartment in the garage, or something like that? Jay Mendels – That didn't get approved. Bren Salamon – Would you like me to summarize what is going on with this? Chairman McClernon – Yes. Bren Salamon – You previously approved a house that was 40 feet wide and I am currently asking for permission to make it 48 feet wide. The reason for that is because the slope of the hill there is very, very gradual and I Don't want the house to be very tall, and in order to make it lass tall, I am asking to make it a little wider. The other reason I need that extra width is because I want to put a primary bedroom on the ground floor, so that it can be handicap accessible.

Jay Mendels – Will this now be a 1-story building, opposed to a 2-story? Bren Salamon – No, it will still be a 2-story building? Jay Mendels – So, I'm not sure how making it wider will make it shorter. Bren Salamon – That is a good question. Previously it was going to be a walk-out cellar, so essentially it was a 2-story house with a walk-out basement. But because the land there is not very steep, in order to do that, we would have to bring in fill for 3 sides of it and if we don't, it will be taller than intended. Jay Mendels – So essentially you are going from a 3-story house, including the walk-out basement, to 2-stories? Bren Salamon – It would have never been legally 3-stories because the walk-out basement would have been below grade, but yes, it is going from 3 floors to 2 floors. Chairman McClernon – So, you are getting rid of the basement all together? Bren Salamon – Yes and it will now be on slab.

Jay Mendels – Is the width the only change from what was originally approved? Bren Salamon – Correct, there are no other changes. Jay Mendels – What was previously approved for the side variance? Chairman McClernon – It was 10 feet for the one side yard setback. Bren Salamon – The side with the 10-foot approval is not changing. It is the other side. Jay Mendels – And that was not included a request because it was already approved? Bren Salamon – That is correct. I am now asking for an additional 8 feet on the side yard that faces the south. Chairman McClernon – Okay because the legal notice says that the required is 20 feet and you are asking for 17 feet and before it was 10 feet. Bren Salamon – Let

me pull up what I sent in. So, I was previously approved for 25 feet for the south side yard and 10 feet for the north side yard. I am not asking for any change to that previously approved 10-foot variance for the north side yard. I am also not asking for any change to the approve garage and its setbacks. Paula Kay – We have the minutes for the April 9th meeting right Laura? Laura Eppers – Yes. Paula Kay – I don't know if I am going to be able to pull those minutes up. Laura Eppers – The minutes show that all variances requested, except the ones in regards to the AUD above the garage, were approved. Paula Kay – Okay and the application this time is asking for only 2 variances, that are both in regards to the one side yard; one side yard from 20 feet to 17 feet and a combined side yard from 50 feet to 27 feet. Bren Salamon – Right and the previously approved combined side yard was for 35 feet and I am now asking for 27 feet, which is an additional 8 feet. Chairman McClernon – Okay, so I think the numbers are right. Paula Kay – Yes.

No further questions or comments from the Board.

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

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

APPLICANT: RONNIE LISS

9 E. Glen Wild Road

Rock Hill, NY

S/B/L: 25.-1-30.1

Steve Vegliante, Attorney for applicant

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) Growing of crops, orchards, or nurseries from required 5 acres to proposed 4.19 acres. Property is located at 9 E. Glen Wild Road, Rock Hill, NY. S/B/L: 25.-1-30.1. In the Zone: RR-1

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Paula Kay was recused from this application.

Steve Vegliante – This property is located at 9 East Glen Wild Road. It was the former kennels and across the street was the Bogursky farm. This is in a traditionally agricultural area and we are here tonight looking to change the use of the building, that used to be the kennel, to an indoor farm use. That use requires 5 acres and this property is only 4.19 acres, so a variance will be required. We are not looking to add any additional building to the property, just change the use of the existing building.

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.

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