

TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
July 9, 2024

IN ATTENDANCE: Richard McClernon, Chairman      Laura Eppers, Secretary  
                              Cindy Ruff     Steve Vegliante, Consulting Attorney  
                              Phyllis Perry  
                              Darren Miller, Alternate  
                              Dana Heimbach, Alternate  
                              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 May 14, 2024 minutes was made by Cindy Ruff and second by Darren Miller. All in favor, 0 opposed.

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

**APPLICANT: 25 SAW MILL LLC**

68 Rock Hill Drive  
Rock Hill, NY  
S/B/L: 32.-2-38.1  
Glenn Smith, Project engineer

Applicant is requesting an Area Variance from §250-11 of the Town of Thompson Zoning Code for (1) Front yard setback from required 50’ to proposed 8’. Property is located at 68 Rock Hill Drive, Rock Hill, NY. S/B/L: 32.-2-38.1. In the Zone: HC-2 with no W/S

Chairman McClernon read the legal notice aloud.

Proof of mailings were received.

Glenn Smith – This is a project on the dead-end side of Rock Hill Drive in Rock Hill and is owned by Norman Gold. It is a 3.5-acre parcel in the town’s Highway Commercial zone and is essentially a boat repair and storage yard. The prior operator was evicted a couple years ago and I know the town has been on Mr. Gold’s case for a while now to get things cleaned up down there. There are a lot of boats and equipment and things like that on the property. We have been to the Planning Board twice already, as we are seeking site plan approval, and they are very adamant that they want the property cleaned up. One issue is the property is in the old Newburgh Cocheton Turnpike, so there is a 100-foot right of way along the front side of the property. If you look at the plan you can see the property line runs through the one house that has been there for over 75 years. So, the Planning Board sent us to this Board to get a couple area variances that are needed. Other than the house, there is a 24’ x 30’ repair shop that is about 8 feet back from the road bounds and there is a 40-foot minimum front yard setback

in this zone. So, it is obviously encroaching. That shop actually used to be an old barn that fell down a few years ago and the prior operator built this building on the existing foundation without a permit. If they had pulled one, they would have known that they were encroaching and would need a variance. The second variance we need, is for a trailer that sits between the repair shop and the house. It is about 25 feet back from the property line, but obviously that is movable and the repair shop is not. Again, we are dealing with the Planning Board and have to go back to them. All of the boats up front are in the town's right of way so they need to be moved and the Planning Board wants a fence put up. What we plan to do is fence in the front portion of the property with chain link, stockade fence. Before we can do any of that and go back to the Planning Board, we need the requested variance.

Chairman McClernon – You mentioned that they would have known they needed a variance if they pulled a permit, but if they did, they would have been told to move it back at that time and prevent a variance from being needed. Glenn Smith – That is true. Chairman McClernon – As for the office trailer, is it just a camping trailer? Glenn Smith – Yes. Chairman McClernon – Where does the sewage for that go? Chairman Lara – The camper doesn't have a bathroom. They use the house and that has a septic and a well.

Phyllis Perry – You mentioned that you are requesting two variances, but I only see one. Glenn Smith – I'm not sure why because we indicated both on the plan. Chairman McClernon – For some reason the legal notice only shows the request for the one 8-foot variance for the garage, so that would be all we could act on tonight. Steve Vegliante – Maybe the building department thought the trailer would be moved. Jim Carnell – We usually leave that up to the discretion of the Planning Board when they review the site plan. However, I would say that there is a good chance that because they are both front yard variances, only the garage is listed because it is the closest.

Steve Vegliante – From being at the Planning Board meeting as well, I know their main concern was getting the property cleaned up. Chairman McClernon – And looking at the arial photos from April to now, it doesn't look like much has changed. The only thing that has been cleaned up is the long trailer that was near the garage and the garbage beside it. Everything that is inside the setback needs to be removed still. Steve Vegliante – Glenn, what is the timeline on this? Glenn Smith – They wanted to get the fence up in the next month to month and a half, but the Planning Board said they would rather not see it put up until there has been some progress with the property. They don't want the fence to hide everything. There are a lot of junk boats on the property that can't be used, but it costs about \$600 a boat to get rid of. Steve Vegliante – Are you on the next agenda for the Planning Board? Glenn Smith – I was waiting to see what happened tonight. Mr. Gold is in court and his next court date is the 18<sup>th</sup> or 19<sup>th</sup>, so that is all kind of waiting to see what happens tonight. Chairman McClernon – My thought was to hold this over for another month so that the owner can get the property cleaned up a little more because he hasn't done much since they have been to the Planning Board. And the Town has been after him for years to get it cleaned up. Phyllis Perry – I agree and think it has to be more than removing just one boat. He will have to show us that he is making a real effort to get the property cleaned up.

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

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

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

The Board agreed to leave this open for another to give the applicant some time to clean up.

A motion to hold the application open until the next meeting, August 13, 2024, was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

**APPLICANT: NEW HORIZON REAL ESTATE ENT, INC. C/O QUAZI AL-TARIQ**

36 Crescent Circle

Rock Hill, NY

S/B/L: 54.-3-18

Quazi Al-Tariq, Applicant

Applicant is requesting an Area Variance from §250-7 & 21B(4) of the Town of Thompson Zoning Code for (1) Percent of lot coverage from required 20% to proposed 50% (2) Front yard setback from required 40' to proposed 20' (3) One side yard setback from required 15' to proposed 1.1' (4) Increasing a non-conforming structure – not permitted. Property is located at 36 Crescent Circle, Rock Hill, NY. S/B/L: 54.-3-18. In the Zone: SR with Central W/S

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Disapproval from HOA was received.

Quazi Al-Tariq – I am here tonight for some variances because the property is too small.

Chairman McClernon – Okay. Have you been building without a permit and ended up getting caught?

Quazi Al-Tariq – No, that is not the case. We have been doing it and we asked for the permit. They keep saying we cannot do it because we need this, this, and this. We have all of this correspondence, which I have found and have a record of. We bought this property in 2016 and they keep saying that they can't give us the permit because it needs to be finished first because in between there was rain and damage there. The inspector went there and saw it and said it's fine, but we need the variances to give us the permission. We didn't add anything, we just tried to repair it so that it doesn't cause further damage. We had to fill the land because there was so much water and the deck was wooden, but I didn't think we would need any permit for that. We have been in touch with them from the very beginning and they said we need a survey, so we did two or three surveys. This is the last survey we had done. Chairman McClernon – Why is there a stop work order on the building? Quazi Al-Tariq – What happened is this was there from the beginning and the water was going from that side to this side, so we covered that up with a ceiling so that the water doesn't go in. But we did not extend it or anything. When the inspector came, he saw how water was coming in and he said go ahead and fix it because it can destroy the place.

But if you look around it, and anybody can go there, we put the big siding instead of the other siding, so it will look nice. No extra structure was built except the deck, which was a wooden deck and now we put this. And we asked for permission for that, but they said we would need to ask for the variance before they can give the permit. Chairman McClernon – What is this here? Quazi Al-Tariq – This is some brick. Chairman McClernon – Does it sit on the ground? Quazi Al-Tariq – This is on the ground. Chairman McClernon – Okay, because the deck sits up off of the ground. Quazi Al-Tariq – Yes and these are the same things that were there before. If you look at this side, this is our property and you can see that our neighbor has built his driveway on our land. He said that he can do it because it has been there for a long time, so we did not object to that. But we did not cross any of the property lines. We keep asking that they give us the permit so that we can clear the deck, but they say they cannot until we get the variance. Chairman McClernon – Jim, what do you have to say from the building department side? Jim Carnell – As far as I know, most of the stuff over here has been constructed without a permit. The pictures that I saw, that Brian took all three different times that he was down there, show continuous work being done. Steve Vegliante – Has there ever any variances issued on this property? Jim Carnell – I don't believe so. Phyllis Perry – So, you said you have permission to do what you did? Quazi Al-Tariq - Yes. Phyllis Perry – And you said you have those letters from the building department? Quazi Al-Tariq – Yes. See this letter is from 2017 and we have been in touch all of the time. Jim Carnell – So these letters, like we discussed in the work session, show that they were issued a stop work order in 2017. They did submit an application, but this letter here is the review comments on that application and we are asking for seven items. We never issued or approved the permit because those seven items were never submitted. This here is the notice of disapproval, where we basically say that he did not submit the additional information that we requested and asked for a survey showing all of the proposed improvements as well as the ones already done. All these letters show is that we denied the application and requested more information.

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

The meeting was opened up to the public for comment.

**Michael Arkin** @ 40 Crescent Circle – Stated that this is affecting the tranquility of their home. Said that there has been work done every day, seven days a week, since they purchased the property up until a year or so. Therefore, is asking for them to add some landscaping along the barrier. Offered to supply the Board with a proposal that he had come up with.

Steve Vegliante advised that he can submit it to the building department if he wants, but there is nothing this Board can do about that.

**Camille Johnston**, HOA president – Stated the HOA has a problem with the side yard setback being right on the property line as well as all of the work that has been going on for the past 6 years, even on the weekends and in the evenings. Advised that the HOA has asked him for many years now to please take care of this and they go ignored. Stated this has been an ongoing issue and they even continue to work after they receive stop work orders from the Town. The HOA does not approve of this application and has sent in correspondence stating so.

Chairman McClernon read the below written correspondence aloud:

[https://drive.google.com/open?id=1boopzlaK0V7wtRbyx00MjSkpAG4\\_TzXI&usp=drive\\_fs](https://drive.google.com/open?id=1boopzlaK0V7wtRbyx00MjSkpAG4_TzXI&usp=drive_fs)

No further comments from the public.

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

Chairman McClernon – I can see this is your deck and these are the stairs coming down, but what is this over here? It looks like there is a railing and it is going uphill. Quazi Al-Tariq – That is the wall that was there, but instead of vinyl, we put bricks. Chairman McClernon – My concern is that if any emergency responders have to come down that side of the house, they won't be able to. Quazi Al-Tariq – This is the thing that has been sitting there for 20 or 30 years, we did not make anything. We just put brick instead of the land. But there was no access to that side at all and all of the houses are like that. The only things we did were put a new deck and raised this down here and put the pavers.

Phyllis Perry – I think one of the issues is that the letters you have there are the building department requesting additional information that you are not giving to them. They were not giving you permission, but asking for additional information. Quazi Al-Tariq – We did give them the size of the brick and move the stairs from this side to that side. Phyllis Perry – But they did not give you a permit. Quazi Al-Tariq – No, they did not give us the permit, but this was afterwards because we thought that we did not need a permit to change the deck. Then I was told that we will need a variance and I didn't even know what the meant. We were also told that we need a survey, so we got a survey. Jim Carnell – Again, going back an looking at satellite imagery from years to years, plus what I have been told, it certainly looks like there was more work done then just replacing the deck and some brick work. It looks like there is some sort of structure there without a roof. That was maybe a pathway or something in the past. Steve Vegliante – Is the block patio completely new? Jim Carnell – I believe all of that work is new and the reason it would need a permit is because of the elevations and the requirement of railings. If it was all at grade level and nothing was above 12 inches it would be exempt from the zoning, but that is not the case here and it needs to comply with the zoning requirements. Chairman McClernon – Are there any railings there now? Quazi Al-Tariq – No railings. They are just piece of block that people can sit on. Jim Carnell – But because it is more than 12 inches off the ground, it needs to have a railing to comply with zoning. Quazi Al-Tariq – That's fine. Whatever you want us to do we will do it. We just need to know. Phyllis Perry – You would not only have to comply with the Town's rules and make sure to get your inspections, but also with the HOA's rules and make sure you do not work on the weekends or after hours. Quazi Al-Tariq - We will do whatever is needed. No one told us we needed a permit or that we can't work on the weekend because that is when I come up. I tell the contractor where to place each brick because that is my passion. Steve Vegliante – The important thing is that no matter what happens tonight, any future work has to be done in compliance of everyone's rules and regulations. Chairman McClernon – Okay, we should probably move along then.

(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; 2 voted yes (Phyllis Perry/Cindy Ruff) and 2 voted no (Chairman McClernon/Darren Miller)

(3) Whether request is substantial; All voted yes

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

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

A motion to approve all variances as requested, subject to compliance with HOA restrictions and Town zoning, obtaining building permit(s) for all work already done and future work, and considering installing a vegetative buffer between this property and the neighboring property (40 Crescent Circle), was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

**APPLICANT: DANIEL VAUGHAN**

20 Canal Road  
Rock Hill, NY  
S/B/L: 66.-5-1

Applicant is requesting an Area Variance from §250-9 & 21B(4) of the Town of Thompson Zoning Code for (1) Front yard setback from required 50' to proposed 49.2' (2) One side yard setback from required 20' to proposed 14.9' (3) Increasing a non-conforming structure – not permitted (4) Percent of lot coverage from required 10% to proposed 15.5%. Property is located at 20 Canal Road, Rock Hill, NY. S/B/L: 66.-5-1. In the Zone: RR-2

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

HOA originally approved request, but then withdrew it as they miss calculated the lot coverage.

Applicant came and explained that they had originally received HOA approval, after several meeting with them, just for it to be withdrawn at the last minute because they recently realized their lot coverage calculations were wrong. As they do not allow any lot coverage over 15%, not even the 15.5 being requested, he will have to reconfigure some things to stay at the 15% and meet with the HOA again to approve that. He will have to submit updated plan to the Board once all of that is done.

The Board agreed that they will hold this application open until next month's meeting to give the applicant time to update everything, but will open the meeting up to the public tonight incase anyone one came out to speak on behalf of this application.

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 Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

A motion to hold this application open until the next meeting, August 13, 2024, was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

**APPLICANT: GARDEN COTTAGES (98 VARNELL)**

98 Varnell Road  
Monticello, NY  
pg. 6

S/B/L: 18.-1-40

Joel Kohn, Project representative

Marty Miller, Project attorney

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Multiple dwelling front yard setback from required 40' to proposed 32.2' (2) Multiple dwellings lot area from required 10 acres to proposed 3.329 acres. Property is located at 98 Varnell Road, Monticello, NY. S/B/L: 18.-1-40. In the Zone: SR with no Central W/S

Chairman McClernon read legal notice aloud.

Proof of mailings were received.

Joel Kohn – As a quick summary, this is a single-family unit that was converted into a multi-family unit. The zone allows for a multi-family unit with, Planning Board approval, but requires a minimum of 10 acres and this is only 3.329 acres. I believe the zone allows for 4 units per acre and they will only have a total of 4 units, so it will be lightly dense. Also, the existing building is less than 40 feet from the property line, at only 32.2 feet, so they will need a variance for that as well as the acreage. That is essentially why this project is here.

Chairman McClernon – Isn't there also a trailer on the property? Joel Kohn – Yes and it is included in the total number of units. Chairman McClernon – Isn't there four units in the house? Joel Kohn – No, there are 3 units in the house, plus the trailer, making a total of 4 units.

Chairman McClernon – Did they get permits to convert this into a 3-family? Joel Kohn – No, not yet?

Chairman McClernon – So, they converted it without any permits? Joel Kohn – Some of the work has been done, but they got a stop work order, so they stopped. They went to court and as part of that, a survey and as built plan was done and they applied to the Planning Board for site plan approval.

Chairman McClernon – Did the trailer have a permit? Joel Kohn – The trailer is old and predates.

Chairman McClernon – It doesn't look that old. Marty Miller – It has been there as long as I can remember.

Steve Vegliante – Is there any record of when it was installed? Marty Miller – I don't think so. Chairman McClernon – Jim, when did the code come into play? Jim Carnell – 1971. Steve Vegliante –

Is the trailer that old? Chairman McClernon – I don't think so because I drove by it the other day and it does not look to be in bad shape. Joel Kohn – Do you want it to look bad? Chairman McClernon – No, I just don't want you to tell me it has been there for over 50 years.

Marty Miller – Historically with this property there have been prior administrative issues and they were not doing things appropriately. In revolution, a new board was elected and hands-on management has been installed, so the stop work orders are now being enforced by them. They installed camera on both this property and the adjoining property, which we will be discussing next, to help them monitor what is going on when they are not there. Affirmative steps have been made to enforce regulations. The work that was done here, was done prior to the new management. It is my understanding that in respect to the building department, there has been engineering done for the building. As for the variances being requested, the building encroaching in the set back is pre-existing and only a small, corner portion of the building is over the line. That's pretty much it and we understand what is required in terms of the construction and code requirements for the multi-family. That is a building department and Planning board issue, but there will

be compliance with that. Joel Kohn – And a plan has been submitted and we had a meeting with the Planning Board prior to coming here. Marty Miller – It is simply a matter of getting this property to conform. Steve Vegliante – Does the building also predate 1971? Marty Miller – I don't know for sure, but I'm guessing it does. This is a request for two area variances, which is not particularly significant giving the situation. Chairman McClernon – I feel going from 10 acres to a little over 3 acres is significant. You can't just blow that off. Marty Miller – It's not like they are looking to build multiple structure with multiple occupancies in them; this is just a single structure, plus the trailer, on this lot. Joel Kohn – For some clarification on the trailer, I can only go back as far as 1997, but it appears to be the same trailer at that time. Steve Vegliante – Does it have a pitched roof? Joel Kohn – I don't know. Marty Miller – I believe it is a flat roof. Steve Vegliante – Because that could be a way to help determine if it is an older trailer. Chairman McClernon – They could have replaced it at some time. Joel Kohn – What does that have to do with it? Marty Miller – A flat roof would indicate that it is an older unit. Joel Kohn – That shouldn't matter because you can see from the image in 1997 that it is the same trailer. Steve Vegliante – I agree.

Phyllis Perry – What about septic if this is being converted into a 3-family dwelling? Is that something you are looking into? Marty Miller – That is a Planning Board issue, but the answer is, yes. We have an engineer who is looking at that and that certainly has to comply. There will be no issue with that. Phyllis Perry – So, you are asking for the variances and then you have to go back to the Planning Board? Marty Miller – Yes. Joel Kohn – We were already in front of the Planning Board, who sent us to this Board. Hopefully we can get these variances approved, so we will go back to them to continue with site plan review. And a set of building plans have already been submitted to the Planning Board.

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

The meeting was opened up to the public for comment.

**Robert Van Etten @ 23 Van Etten Road** – Had the below question:

- Is the property big enough to support a proper septic system for this request? Stated he himself was required to put in 400 deet of leach filed for a 3-bedroom house. Assuming each unit has 3 bedrooms that would multiply to 1,200 deet of leach filed.

Chairman McClernon advised that this will go back to the Planning Board to review those kinds of things; they are only here tonight to request the 2 variances. Joel Kohn added, quickly as to not get into a back and further with the public, that yes, the septic system is being looked into by an engineer and they will have to certify that it is sufficient to serve the new demand. If not, it will have to be upgraded. The Planning Board will not issue any approval if it is not complaint. Chairman McClernon explained that there is a link to the Google Drive for this project on the Town's website that can be monitored to see any future meetings or progress with the Planning Board. Jim Carnell asked if they knew how many bedrooms in total there would be. Joel Kohn advised that he was not completely sure, but it would be roughly the same number of bedrooms; maybe 1 or 2 more.

- Are there any additions being proposed to the existing building to accommodate 3 families?

Marty Miller advised that there are no additions proposed and the foot print of the building will remain the same.

- Is the property zoned for multiple families?

Joel Kohn advised that it is a permitted use in the zone. Marty Miller explained the issue is with the size of the property.



**Rosemarie Marcellino @ 11 Van Etten Road** – Stated she is a longtime resident and had the below concerns:

- Does not see how they are going to fit 3 families into the house being discussed as it is a very small house.
- Afraid approving these variances will set a precedence for future requests of this nature.
- Concerned that adding more families will increase the amount of garbage on the property and ultimately effect the value of the other houses on the road. There is already an issue with the amount of garbage that is on the property during the summer, while being occupied, and left behind when the summer is over. Stated that everyone else on the street, including other Hassidim families, keep their properties clean. She has seen rats and bear because due to the amount of garbage and the condition of the property is embarrassing.

**Nicole Ziegler @ 16 Van Etten Road** – Had the below questions and concerns?

- Did they already make this a 3-family home?

Joel Kohn explained that there has been some construction done, but it has not been complete yet.

Chairman McClernon asked if it is currently being occupied because it looks like people are living there.

Joel Kohn advised that there may be one family living in there now, but he was not for sure.

- Reiterated what Rosemarie said about the horrendous condition of the properties and added that the noise is outrageous as well.
- Feels the applicant has no respect for their neighbors, the environment, or the law.
- Will this affect their water table at all?

Chairman McClernon advised that it shouldn't. Steve Vegliante reiterated that this will still have to go through the Planning Board process and that most of the questions and concerns brought up will have to be addressed at that time. Nicole Zeigler pointed out that they would only be going back to the Planning Board if the variances are approved.

- Feels going from 10 acres to 3 acres is a substantial request.

Joel Kohn explained that the density in the zone allows for 2 units per acre, so they could have up to 6 single-family homes, which would have a greater impact then the current request.

**Brian Vandermark @ 4 Van Etten Road** – Had the below comments:

- The request to go from 10 acres to a little over 3 acres is more than a 50% ask and feels that is asinine.
- Has an issue with all of the code violations and work being done without permission, which effects every single person in the room, and feels approving the variance requests will set a bad precedence.

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 – As the public has mentioned, there is an issue with garbage and I meant to ask if they had any plans to install a garbage compactor? Steve Vegliante – For this property or the other property? Chairman McClernon – Mostly for the other property, but I am assuming they would share.

Steve Vegliante – We should probably wait to discuss that until the next application. Chairman

McClernon – Okay. Marty Miller – That will also be something the Planning Board will handle. If they want us to put one in, we will.

Chairman McClernon – Let’s go through the criteria:

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

There was no motion made to approve the requested variances.

Marty Miller – If the issue is with not having answers on the well and septic, we can most defiantly get you those. Chairman McClernon – Unless you can find 7 more acres, I don’t think you are going to get your approval. Steve Vegliante – At this time, if the applicant feels they have more information that they want to provide to the Board, they can withdraw the application and come back when they are ready. If not, the Board will proceed with a decision tonight.

A motion to deny the variances as requested was made by Phyllis Perry and second by Darren Miller. All in favor, 0 opposed.

**APPLICANT: GARDEN COTTAGES**

98 Varnell Road

Monticello, NY

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

Joel Kohn, Project representative

Marty Miller, Project 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 project has been held open for several months now, since February, so Chairman McClernon read the legal notice aloud to remind everyone of the variances being requested.

Mart Miller – Since we were last at this Board there has been extensive work done making some of the variances being requested inaccurate. The calculations have changed and we expect that they may be altered again because they are still reviewing some of them. However, I can assure you that John Fuller has spend a considerable amount of time at the property. As an engineer, he has to analyze and reanalyze the structures and their square footages. There has been a new table added to the plan which addresses the extent of the variances. In most instances the amount or the percentage has declined due to recalculation or modification, it all has to do with interpretation of the State building code. So, I can tell you that that work has been ongoing and continues to be ongoing. In addition, as concern was raised in regards to the septic systems, all of the septic systems on this property have been investigated and have been certified to be properly functioning. Those are the things that have been accomplished since we were last here.

Chairman McClernon – I'm not really sure what to say at this point. Steve Vegliante – I am new to this application, but it would seem to me that what this Board needs is an accurate site plan, for preservation of the record. There are so many variances here and if they are incorrect, that is not helping anybody. Mart Miller – This is a massive project for an engineer to do, so John is still reviewing and adjusting. Steve Vegliante – I get it.

Joel Kohn – Just to elaborate a little on what Marty has said, we had a work session with Town consultants about 2 months ago, after the last meeting, and we discussed the sewer and the definition for the Town, as the Town has expansion for flow area for nonconforming bungalow colonies. Flow area specifically excludes decks, which were included in the original count. Chairman McClernon – Only decks? Joel Kohn – That is correct. Chairman McClernon – Okay, because there is a lot of covered decks. Joel Kohn – Right. So, that is what the engineer tried to figure out and it's not an easy task. We looked at all of the aerals from the past 20 years and some of these additions have existed even longer than that. All of the septic systems have been located and shown of the site plan, but has not been submit to this Board yet, so the site plan on the table tonight does not show that. We do not expect any decision tonight, we just wanted to come and give the board an update on where we are at with this project. We were hoping to be back next month, but that may be an issue because when I was looking at the calendar, I noticed it lands on Tisha B'av. So, we may have to come back in September. Chairman McClernon – This has been pushed off too far now. This application has been in front of us since February and I measure buildings, it shouldn't take more then a few days to get all of those buildings measured. I don't understand why it is taking over 6 months to do. At this point, you are just dragging your feet and waiting for summer to be over. This way people can live in the buildings that they have no permit to live in, like units 1 & 2. Joel Kohn – I don't know if units 1, 2, 3 or 4 are being lived in. Chairman

McClernon – I know they are living in 1 & 2 because when I drove past the other night, the lights were on and it looks like there is covering over the back windows. Is there anything new on this plan in front of us tonight? Joel Kohn – No, but like Marty has said, most of the variance requests have changed and some of them are not even needed anymore. Some of them need lesser of a variance and some of them need more, so it goes both ways. Steve Vegliante – Jim, have you received the updated plan yet? Joel Kohn – We just got it the other day. The septic systems were tested at the end of June as we needed to wait until there was water on the site. Steve Vegliante – This is complicated because it is also a Planning Board and court action. Where do those stand? Marty Miller – The court action is on hold pending the outcome of the Boards. Steve Vegliante – I’m having a hard time advising this Board on appropriate action because it seems like this keeps changing and will change dramatically when all is said and done. I mean this Board can vote it conscience tonight or they can give this applicant more time to come back with a precise site plan. It sounds like they may be asking for a lot less when everything has been figured out. Chairman McClernon – Why don’t you guys figure it all out, re-notice, and then come back to us. Joel Kohn – Well we probably won’t have to re-notice because most of the requests are decreasing. Steve Vegliante – Didn’t you say that some may be increasing as well? Marty Miller – The reality of it is that we represented to the court that we are presenting and the engineering work is being done. Which in fact, is being done. So, to withdraw at this point would suggest that this is off the table. I think that when we have the final done, I think then we will re-notice and advertise it. Steve Vegliante – I think my concern at this time is, and I don’t know how the Board feels but, if they decide not to give you more time, you are going to get a denial and I would think withdrawing would be better than that. Jim is here representing the building department, so he knows what is going on and would be able to relay if needed. It seems to me that this application isn’t right yet because it doesn’t seem to be accurate. I think we understand that there is a lot of work happening on this property and that they are trying to get us an accurate plan, but I haven’t been involved from the beginning, so how does the Board feel? Chairman McClernon – I think they have been dragging their feet and we have been patient since April, I believe. Jim Carnell – That may have been when they first appeared in front of this Board, but the Town and building department have had issues for numerous years with this property. So, the first think I looked at when reviewing the plan in front of us, and I didn’t even look at what changed, was the date in the revisions box, and the engineer only finished updating it today. Again, with respect to the Board, how can you submit something to the Board on the day of the meeting and expect them to act. Marty Miller – We are not expecting them to act tonight. Jim Carnell – Still, nobody came to us prior to 15 minutes ago to give any kind of an update on the status of everything. I mean there has been zero communication. Steve Vegliante – I’m going to officially ask the Board this, does the Board wish to consider putting this over for another month? Chairman McClernon – Well, it’s really going to be 2 months now. Steve Vegliante – Right. Marty Miller – The reality of it is that we just got this stuff from the engineer. Steve Vegliante – We get that, but if they are not willing to grant you the adjournment, then the question is whether you want to withdraw and come back later, with what seems to me is going to be a smaller application, otherwise, the board is going to go through the criteria and act. I don’t know how they will vote, but my guess is it isn’t going to end positively. Phyllis Perry – I mean it has taken so long to get to this point, it seems to me what is another month, but how much can you actually accomplish in another month or two? Joel Kohn – I think we can have this 100% accurately completed by then. Chairman McClernon – See, I find possibly one error and that’s units 9 & 10, which I believe is one unit that has a covered deck on it, but here it says there was no change in the square footage. Joel Kohn – Like we mentioned before, this is only about 80% complete, so there is still work to be done.

Chairman McClernon – I think that you should just come back to us in six months or a year or whenever you are ready and let the court handle it. Steve Vegliante – I think we can't influence whatever happens in court and how they chose to act. It seems like there is a lot of work being done and that has already been done, but this Board is telling you that they are frustrated that they have had to wait this long already and since they can't grant your requests tonight, it is probably better off putting in a new application when you are ready. Joel Kohn – I understand the frustration of the Board, however, I do want to say this, the Zoning Board is not a punishing board. The Planning Board is the ones who would approve the plans and we come to the Zoning Board for relief from the code. This is not a punishment board as the Chairman wants to put it as. Chairman McClernon – We are not punishing anybody. Joel Kohn – As you clearly said at the last meeting, there is not excuse to work without a permit and we need to put a stop it and make this as an example. Those were his exact words. Just like you want to set the record straight, I want to set the record straight, and those were his words. Everyone know that the Zoning board is not a punishment board. Steve Vegliante – You are absolutely right. Joel Kohn – Just because an engineer or maybe even the applicant I lacking, that is not a reason to say that they cannot wait any longer, that is not in their purview. Steve Vegliante – We can go through the criteria questions if you want. Joel Kohn – I just wanted to clarify that because it seems like they are going over their boundaries. And I understand their frustration, but I just needed to say that. I am not going to defend the applicant with the acts that have been done over the last couple of years. I even understand the frustration of the neighbors because they have to drive by there every day and don't want to see all of the garbage. But they have now put about 40 to 50 thousand dollars into this with the survey, all of the engineering, and other stuff, so a lot of money has been going into this. Yes, it took them a little long to get to where they are at and they are not completely there yet, but they are putting in the effort. Marty Miller - The reality is that we were working with a survey that was old and from a surveyor who is no longer in the area. So, the first step was to engage a new surveyor to go in an locate things, and that was an immense job. After that the engineer went out and started doing his thing. It is not a simple task and while the comment is that you can scale a building in a short period of time, that's perhaps not with the degree of specificity we need for somebody to put their seal on it. Cindy Ruff – Can I ask a question? This particular site plan is not accurate, correct? Joel Kohn – Right, it is not 100% accurate. Cindy Ruff – Why would you pay money to have this run up if it's not 100% accurate? Maty Miller – I can respond to that. Steve Vegliante – Let's not get into that. It seems like this is still a work in progress and this Board needs specific information to be able to act appropriately. Marty Miller – But the answer to that is that we ask the engineer to give us whatever he had done, so that we would have something to present to the Board to show that there is progress being made and it is being worked on diligently. We promised to keep you updated as things are moving forward and that is what we are doing. Cindy Ruff – I only asked because you were telling us how much money they are spending on this and why would they spend all of this money, that they are complaining about, on a half-done thing. That's it. Joel Kohn – I understand your question and they are not complaining, but like Steve said, it is still a work in progress and we do plan to have a completed site plan the next time we come back. Steve Carnell – Jim, how do you feel about holding this over? Jim Carnell – That would really depend on the Board or if there is any kind of a statute giving them a timeframe that would limit them from extending this. And I don't know if that would aquatically give them a denial or possibly an approval. Mart Miller – We consent to all adjournments so that responsibility of the Board to act within the statutory time frame has been extended by the consent of the applicant. If the applicant had not granted consent, then that would not be the case and we would be way past the timeframe. Phyllis Perry – I can say that I applicant that the

applicant is working hard and you have made it clear to us that they got a new HOA board, so I would say that if you truly believe you can come back to use in 2 months with a final plan, I would say okay personally. But if it is not ready by then and we end up hearing the same information, I would feel you need to withdraw at that point or get denied. Joel Kohn – I can completely understand that and I think that would be fine. Marty Miller – Right and by that time we will have the corrected requests with the new figures. Like we mentioned before the majority of them will be significantly lesser and there may be one or two that end up increasing, but that is marginal in the scheme of things and don't think the public should have an issue with that. Steve Vegliante – I am just going to tell you right now that if any of the requests have increased, my advice to the Board is that they will have to be re-noticed. Marty Miller – Then I would expect that when we come back in two months it will be informational so that we can re-notice for a future date. Because we know that some of them are going to increase, so that will be necessary. Jim Carnell – Why don't you aim to have it re-noticed by that meeting because the deadline for that would be until the middle of August. Steve Vegliante – If that is the case, then the Board should think about if there is any specific information you want by that date. There are a lot of things that came up tonight, so is there anything else you would like to see from this applicant? Jim Carnell – I would say that if the Board is drawing the line at the September meeting all of the information would need to be in by the 23<sup>rd</sup> of August, or whenever that deadline is. Steve Vegliante – Phyllis, do you want to put that in a form of a motion? Phyllis - I would with the understanding that the September meeting is a hard end to this application and the required information needs to be submitted by the deadline for that meeting. Steve Vegliante – And to make sure everything we need is there, you want a correct and accurate site plan and some kind of evidence as to the viability of the septic systems? Phyllis Perry – Yes and I think that is fair because there has to be an end.

Someone in the audience asked if the public was going to get to speak. After reviewing the minutes from all prior meetings, it was determined that the public hearing was never closed for this application, so the meeting was opened up to the public for comment.

**Rosemarie Marcellino @ 11 Van Etten Road** – Had the below questions and comments:

- Asked for some clarification on the application and whether they were looking to re-due all of the bungalows.

Chairman McClernon advised that this is to cover all of the work that was already done without permits. Steve Vegliante added that after this they will have to complete the Planning Board process and deal with the court and any penalties or fees they may have. As of tonight, this Board has agreed to extend the application until September and a decision will be made then based on the accuracy of the information submitted. Also, a new notice will be circulated if any of the asks become greater and that will prompt a new public hearing.

- Expressed she is concerned about the water table due to the number and size of the bungalow.

Phyllis Perry explained that part of the agreement to extend this application for a couple more months, is that they will be able to supply all of that information by then.

**Brian Vandermark @ 4 Van Etten Road** – Had the below comments:

- He would think that because the applicant already built all of this without permits, that should be grounds enough for this Board to deny the variance requests.
- Concerned that the reason for increasing the size of the bungalow was so that more people could live in there and if that is the case, then that will affect the water use for sure.

- Concerned allowing the applicant to push this off to the September meeting will cause inaccurate water tests because everyone leaves at the end of August.

Steve Vegliante – Clarified that even though the meeting is in September, the submission has to be in by the third week in August, so the test will have to be done prior to that.

No further questions or comments from the public.

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

A motion to hold this application open until the September 10, 2024 meeting to give the applicant time to provide an accurate site plan as well as a letter signing off on the water and sewer capacity, was made by Phyllis Perry and second by Cindy Ruff.  
All in favor, 0 opposed.

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

Respectfully submitted,

Laura Eppers  
Secretary  
Town of Thompson Zoning Board of Appeals