



APPROVED

**TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, December 13, 2016**

IN ATTENDANCE:

Chairman Richard McClernon, Richard Benson, Robert Hoose, Pamela Zaitchick, Jay Mendels and James Carnell, Director of Building/Planning/Zoning, Paula Elaine Kay, Esq. and Kathleen Brawley, Secretary

Absent: Jose DeJesus (Alternate)

Chairman McClernon called the meeting to order at 7:00 p.m. with the Pledge to the Flag.

A motion to accept the November 8, 2016 meeting minutes was made by Richard Benson and seconded by Robert Hoose.
4 in favor, 0 opposed

AMERICAN THEOLOGICAL INSTITUTE, INC. (continuation of hearing)

Property is located in the HC-2 Zone at 4493 State Route 42, Monticello, NY; S/B/L: 13.-1-27
Maria Zeno, Esq. and Joel Kohn

Chairman McClernon read the public notice: Applicant is requesting an area variance from §250-11 of the Town of Thompson Zoning Code for the purpose of permitting an increase in lot coverage from the permitted 10% to 11.21%.

Satisfactory proof of mailing was previously provided to the Board.

The Board notes that the §239 Review was received, but the County has an issue with the calculation of density, which is a Town issue which needs to be addressed. The County also felt that all of the buildings needed to be included in the calculation and the Building Department feels that all of the buildings on the site are included in the applicant's calculations. The County also suggested that the applicant address parking needs.

Chairman McClernon asked if the applicant fixed the parking issue to avoid buses being parked on the road. Joel Kohn showed the Board where the buses will now be parked which will permit buses to enter onto the site, alleviating parking on the side of the road.

Richard Benson noted that there will be less bussing as the dormitory will reduce the number of day campers and the applicant confirmed that. Chairman McClernon asked if they would simply add the day campers that are now staying at the camp and the applicant stated they would not.

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PUBLIC COMMENT:

Ida Richter asked where the property was located and Chairman McClernon advised her of the same.

AREA VARIANCE CRITERIA:

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance? All voted no. Rich Benson advised no, as long as they take care of the bussing issues.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

A motion for negative declaration motion under SEQRA was made by Robert Hoose and seconded by Richard Benson.
5 in favor; 0 opposed

A motion to approve the variances as requested was made by Pamela Zaitchick and seconded by Robert Hoose
5 in favor; 0 opposed

CONCORD FAIRWAYS LLC

Property is located in the SR Zone at Concord Road, Monticello, NY; S/B/L: 9.-1-36
Kevin McManus, P.E. and Henry Zabatta

Chairman McClernon read the public notice: Applicant is requesting an area variance from §250-7 and §250-28 of the Town of Thompson Zoning Code for the purpose of permitting an increase in length of rental apartment buildings and/or townhouse type buildings as follows:

BUILDING	REQUIRED (in feet)	PROPOSED (in feet)
2	132	216
5	132	144
6	132	180
8	132	144
9	132	180
11	132	220
12	132	176
13	132	144

Satisfactory proof of mailing was provided to the Board.

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Mr. McManus apologized to the Board for having to come back before them for this variance. They have cleaned up the site substantially. They have reduced the environmental impacts and reduced the footprint of the overall buildings and decreased the number of bedrooms for the project. They have a site plan which they are trying to maintain to what was original. With wetland reflagging and dealing with current storm water prevention plan, they have had to adjust some of the buildings. They ask that the Board consider this application, as they had previous approvals. Attorney Paula Kay advised that the building lengths have been reviewed by Town officials and they have no issue with the building lengths. Jay Mendels asked how many units would be and Mr. McManus advised 110. When Mr. Mendels asked about what changed, Mr. McManus advised the bedroom count and not the unit account.

PUBLIC COMMENT: There was no public comment.

AREA VARIANCE CRITERIA:

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? 2 voted no (Benson, Hoose); 3 voted yes (Zaitchick, McClernon, Mendels).
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

Chairman McClernon advised the applicant that the reason this Board is approving this variance is solely because the applicant previously received the variances for the same. This approval should in no way set a precedent.

A motion for negative declaration motion under SEQRA was made by Richard Benson and seconded by Robert Hoose.
5 in favor; 0 opposed

A motion to approve the variances as requested was made by Pamela Zaitchick and seconded by Robert Hoose
5 in favor; 0 opposed

ICHUD FOUNDATION, INC.

Property is located in the SR Zone at NYS Route 42, Monticello, NY; S/B/L: 28.-1-22
Tim Gottlieb, P.E., Rabbi Schwartz and Maria Zeno, Esq.

Chairman McClernon read the public notice: Applicant is requesting an area variance from §250-7 of the Town of Thompson Zoning Code for the purpose of permitting an increase in density from the required 2 dwelling units per acre to 2.94 dwelling units per acre.

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Applicants are also requesting an area variance from §250-21(B)(4) of the Town of Thompson Zoning Code for the purpose of increasing a non-conforming building or structure.

Satisfactory proof of mailing was provided to the Board.

Mrs. Zeno advised that it appears that the County Planning Department's review under §239 was simply re-dated and they did not take into consideration that the zone was different from their previous application.

Discussion was had as to what was previously approved for the variance. Joel Kohn advised that the original variances were requested at 2.44 which was preliminary. After review by the Board, it was approved at 2.63. There is a typographical error in the meeting minutes. Mrs. Zeno advised that they are seeking to increase the density to 2.94%.

Attorney Paula Kay noted that the County Planning Department may have reviewed this matter as a parcel in the SR zone, when it should have been RR-1. However, the Board will have to consider the Planning Department's determination which is currently for a disapproval, flawed or not. It may be beneficial to the applicant of have the County to review the matter again for the correct zoning district. Mrs. Zeno advised that the agenda also notes the incorrect zone.

Attorney Paula Kay advised that she is not sure that the Planning Department's comments are very specific and may not change if the zoning changes.

Chairman McClernon also advised that there are violations open from 2014, most of which have not been addressed by the applicant. Attorney Paula Kay advised that the applicant was asked to correct these issues when they came before the Board in 2014 and only a couple have been addressed. Pamela Zaitchick advised that she believes all of the issues should be addressed.

Rabbi Schwartz advised the Board that most of the Certificates of Occupancy have been issued.

PUBLIC COMMENT:

Jeanne Zager, neighbor. She asked if the entrance and exit of the buildings will remain on Route 42. Attorney Paula Kay clarified that they are in the RR zoning district. She thought that the property was in the back of the property near the residences. The applicant advised that the road in and out of the premises will remain the same. Mrs. Zager advised that she was not aware of any variances being granted in 2014 and she was at the meeting. Mrs. Zager would also like to state that the density was not approved and they overbuilt. She does not support a density increase. Mrs. Zager does remember that there were water issues and Chairman McClernon advised that was a planning board issue and addressed by them.

Beth Leidner, neighbor. She claims she never received notice for the hearing in 2014. What concerns her as to how many units they want to add. Mr. Gottlieb advised 20 buildings, 40 units.

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Mrs. Leidner felt that the number of people at the site will increase too far. There are water and sewer issues. Her well has run dry once. She wanted to know how many people stay on the premises. Robert Hoose advised that after the additions, they could have 1,000 people which Rabbi Schwartz said was about accurate. Mrs. Leidner advised that this would be 10% of the total population of the entire Town and the neighbors are concerned. She is also concerned about the increase in the number of cars. She is also concerned that this will set a bad precedent and open the door for other colonies to expand. Mrs. Leidner advised that this is a tax exempt property. The Town is obligated to support fire, water, etc. Chairman McClernon advised that this is an issue this Board cannot address.

Robert Fleischman, neighbor. He concurs with Mrs. Leidner. He questioned the decreases on other applications before the Board tonight which are asking for decreases and Attorney Paula Kay advised that it is for building separation. Mr. Fleischman advised that the increase means almost 3 buildings per acre. Mr. Fleischman advised that the code is based on average families within the Town. Residents who reside at this parcel will have many more people on an acre than the average resident in the Town. Mr. Fleischman advised that he chose to live in the residential area to get away from the crowds. This variance will permit larger crowds and get more money per foot. He feels approving this application will set a bad precedent. Mr. Fleischman advised that he has lived in the area year-round for many years. He feels all residents should all live under the same rules and regulations and make the best of it. It's called being cooperative.

Ida Richter, neighbor. Mrs. Richter advised that when this property was originally started, Judge Finn set rules which were not obeyed by the applicant. Buildings were larger and placed in the wrong places. She does not want to go through this again. She felt they disobeyed the Judge's rulings. Maria Zeno, Esq., advised that Judge Finn is the Village Justice and would have no jurisdiction over this.

Attorney Paula Kay confirmed that there were some buildings built without approval a few years ago. Buildings were not located in the approved locations but are not on the site plan in the correct locations. Mrs. Kay also advised that a lot has to happen before this matter is decided on and if the Board decides this matter tonight, they would need a super majority as the County Planning Department recommended denial of this application. What the applicant is proposing is on the site plan and the neighbors can be assured that the Town will be watching carefully over this project, if the same is approved.

Karen Simon, neighbor. Mrs. Simon read the letter of Mona Tugender, a neighbor of the premises.

Correspondence was also received from Thomas and Lynn Fogarty opposing this application. All of the correspondence received are contained in the Board's file.

Bob Hoose asked if the entire parcel was in the Village and the applicant advised it has Village Sewer but it is entirely in the Town. Mr. Hoose feels that the wells could be an issue for the amount of people on the site. Rabbi Schwartz advised that they have three wells. Mr. Hoose noted that the applicant should speak to the Village about water.

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Chairman McClernon also asked the applicant about the expansion of the Rabbi's residence. Rabbi Schwartz advised that the Rabbi passed away in the residence and his wife is uncomfortable going back into the bedroom. Rabbi Schwartz advised they are not adding a bedroom, just adding space. They will convert the existing bedroom to living space.

Mrs. Zeno advised that the applicant would like to request an adjournment as they want the County to review this application under the correct Zoning code.

The Board advised that the applicant should try and address the Building Department issues before they come back before the Board.

Robert Hoose asked if the applicant could get an engineer's report on the amount of water used on the premises. Rabbi Schwartz advised that they have water storage tanks. Mr. Hoose advised that the increase in water is not fair to neighbors, as they are all using the same aquifer.

Pamela Zaitchick advised that she is concerned about the increase of vehicles and parking on the site. Maria Zeno, Esq., advised that the Department of Transportation did review this application and they did not raise any issue regarding safety or traffic.

A motion to hold the hearing open until January 10, 2017 was made by Richard Benson and seconded by Jay Mendels
5 in favor; 0 opposed

Attorney Paula Kay explained to the public what would happen after tonight's meeting. The public wants the water issue to be addressed by the applicant and the Board advised that the applicant will bring the same to the January public hearing.

CHRISTINA SANFELIZ

Property is located in the RR-1 Zone at 203 Rapp Rd, Monticello, NY; S/B/L: 11.-1-13.1
Robert Bernard

Chairman McClernon read the public notice: Applicant is requesting an area variance from §250-8 of the Town of Thompson Zoning Code for the purpose of permitting an increased garage height from the required 16 feet to 18 feet.

Satisfactory proof of mailing was provided to the Board.

Mr. Bernard advised that he built the garage without a permit. He paid a fine. The garage is code compliant, except the height. It is a simple garage is 17 feet 10 inches which is only one foot, ten inches higher than what is permitted. Mr. Bernard provided the Board with photographs.

AREA VARIANCE CRITERIA:

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- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? All voted no. All voted no.
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

A motion to approve the variances as requested was made by Richard Benson and seconded by Robert Hoose
 5 in favor; 0 opposed

GARDEN HILL ESTATES LLC

Property is located in the RR-1 Zone at Strong Rd, Monticello, NY; S/B/L: 1.-1-12
 Abe Berkovic

Chairman McClernon read the public notice: Applicant is requesting an area variance from §250-8 of the Town of Thompson Zoning Code for the purpose of permitting a reduced building separation as follows:

UNIT	REQUIRED (in feet)	EXISTING (in feet)	PROPOSED (in feet)
2-3	25.0	19.7	19.7
4-5	25.0	19.7	19.7
6-7	25.0	19.4	19.4
8-9	25.0	19.0	19.0
10-11	25.0	11.0	20.0
11-12	25.0	19.8	21.4
12-13	25.0	17.7	20.0
19-20	25.0	20.9	20.9
23-24	25.0	15.3	15.3
24-25	25.0	8.2	12.2

Applicant is also requesting an area variance from §250-8 of the Town of Thompson Zoning Code for the purpose of permitting a reduced front yard setback for Unit 24 from the required 100 feet to 78.6 feet.

Satisfactory proof of mailing was provided to the Board.

Attorney Paula Kay advised that these variances were previously granted but expired. Mr. Berkovic advised that there are no changes to the variances as requested. Mr. Berkovic advised that the site plan was approved by the Planning Board in 2016 and unfortunately, the variances expired before they could build.

PUBLIC COMMENT: There was no public comment.

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AREA VARIANCE CRITERIA:

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (2) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

A motion for negative declaration motion under SEQRA was made by Robert Hoose and seconded by Pamela Zaitchick.
5 in favor; 0 opposed

A motion to approve the variances as requested was made by Robert Hoose and seconded by Richard Benson
5 in favor; 0 opposed

LEISURE ACRES SUMMER HOMES LLC

Property is located in the SR Zone at 175 and 181 Cold Spring Road and 2-32 Yellow Park Road, Monticello, NY; S/B/L: 29.-2-13, 22 and 23
Jay Zeiger, Esq., Joel Kohn and Mr. Silber

Chairman McClernon read the public notice: Applicant is requesting an area variance from §250-7 and §250-28(c)(1) of the Town of Thompson Zoning Code for the purpose of permitting a reduced number of dwelling units of a row house from the required 3 dwelling units to 2 dwelling units.

Satisfactory proof of mailing was provided to the Board.

Mr. Zeiger advised that this is a project which he has been working on extensively and explained the history of the same. The applicant met with the building department and Town officials. Attorney Paula Kay previously advised Mr. Zeiger that the property was in poor condition. The applicants wanted to tear everything down and start new but it was not financially feasible. Mr. Zeiger advised that his client then purchased other adjoining properties to make the parcel larger. The applicant met with the Town about water and sewer and extending the districts which is pending. The applicant is seeking a zone change. This would allow 4 units per acre on one lot and 2 units per acre on the other lots. If they get the zoning change, they only want to build 60 units in total, although they could build more. Mr. Zeiger advised that the Town Law does not give a number of units for row houses. He spoke with Attorney Paula Kay who advised that the previous definition of a row house was determined by this Board to be a series of three or more units. Mr. Zeiger felt that this definition may not be correct, but they are here to request a variance

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from 3 or more to two. Mr. Zeiger showed the Board what is there now and that the applicant has determined to start over and tear down all buildings and start fresh. He showed the Board a rendering with sixty homes on the site and as two unit row houses. The applicant feels that two is better for many reasons.

Pamela Zaitchick asked why they are not calling them duplexes instead of row houses. Mr. Zeiger advised that row houses are permitted in the zone and duplexes are allowed, with a smaller amount and more site work. Mr. Zeiger advised that if they build three in a row, they could build more houses, but the applicant only wants to build two in a row. Pamela Zaitchick feels this is in opposite to the Town Code. Mr. Zeiger felt that this was not a density issue. The applicant is not compromising any Town plans. They have met with the Town officials and they are working with the applicant on zoning changes and water and sewer districts. His clients are cleaning up a very run down property. Mr. Zeiger advised that if this is not approved, they will just build three. Richard Benson advised that they can just build row houses which are permitted in the zone. Chairman McClernon advised that this is a variance that he feels will set a precedent. Mr. Zeiger advised that all variances set a precedent. Pamela Zaitchick advised that she understands that they will be nice, why does the Town have to make a variance to allow that based on that justification. She feels that it is nice that the area will be made nicer, it just doesn't mean that the Town has to change the code to permit extensive building. Mr. Zeiger advised that this is not exactly what he is asking for. They do have a choice. They can build three-unit row houses. Sixty units are permitted. Attorney Paula Kay advised that if the applicant does build duplexes, the density and setback change. Perhaps the Board needs to see a rendering with three units. Row houses are in the Town's multiple dwelling section of the Code. Attorney Paula Kay advised that the Town has previously done a lot of research about the number of units. Pamela Zaitchick advised that she understands that duplexes are nice, but they are not permitted in the zone. Jay Mendels concurred. Pamela Zaitchick advised that they bought the property knowing what the zoning was.

Mr. Zeiger advised that they are not asking for duplexes to build more than they can. They want to build 60 units. Joel Kohn advised that the premises across the street has duplexes. Bob Hoose wanted to know what the advantage was of a row house. Joel advised that duplexes and row houses have to be developed differently.

Pamela Zaitchick advised that the laws were put in place with great care and she wants to keep the concept the same.

Chairman McClernon advised that he agrees with Pamela Zaitchick and feels granting this variance will set a bad precedent. The interpretation was set at three or more for a row house. Attorney Paula Kay advised that the density for a row house versus a duplex is the same, but after that there are all different requirements.

Robert Hoose advised the applicant that they should just build the three units as permitted. Joel Kohn advised that the plan is to change it to three units if they are not approved tonight. They feel the look of the project will be nicer with two houses. There are also economic issues. You can't sell the middle home. If they do duplexes, they would have to do a subdivision which would

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change the plan. Attorney Paula Kay noted that there was a reason for placing the laws pertinent to the zone.

PUBLIC COMMENT: There was no public comment.

Correspondence in opposition to the application was received by Chris Wallace and Gordon MacAdam.

A review of the County Planning Department was requested but not received by the Board.

Attorney Paula Kay advised that it appears that due to a typographical error, the parcel identification numbers are incorrect on the Public Notice, but the correct neighbors of the parcels in question were notified by mail. Therefore, the Board will re-notice this application.

A motion to hold the hearing open until January 10, 2017 was made by Richard Benson and seconded by Robert Hoose
5 in favor; 0 opposed

NOB HILL COUNTRY CLUB INC.

Property is located in the SR Zone at 4599 State Route 42, Monticello, NY; S/B/L: 9.-1-5

This matter was removed from the agenda at the request of the applicant.

A motion to adjourn the meeting at 8:27 p.m. was made by Robert Hoose and seconded by Jay Mendels.
5 in favor; 0 opposed

Respectfully submitted,

Kathleen Brawley, Secretary
Town of Thompson Zoning Board of Appeals

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