

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, June 13, 2017

APPROVED

IN ATTENDANCE: Chairman Richard McClernon Jay Mendels
Robert Hoose Pamela Zaitchick
Paula Elaine Kay, Attorney
James Carnell, Director of Building/Planning/Zoning
Debbie Mitchell, Secretary



Absent: Richard Benson, Jose DeJesus

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

A motion to approve the May 9, 2017 minutes was made by Robert Hoose and seconded by Jay Mendels
3 in favor, 0 opposed

Chairman Richard McClernon sustained his vote since he was not here last week.

Appeal by: PINE TREE RESORT ESTATES, LLC

Property is located in the HC-1 zone with no central water/sewer at 3672 State Route 42, Monticello, NY
S/B/L: 29.-1-2

Applicant is requesting a(n) area variance from §250-34D (6) of the Town of Thompson Zoning Code for
the bungalows minimum setback required 25 feet to proposed 24 feet 4 inches.

Joel Kohn, on behave of the applicant

Satisfactory proof of mailing was provided to the Board.

Mr. Kohn – Pine Tree was approved to upgrade a few of their building with a new duplex building. The
builder came in and did the foundation and was off by an eighth of an inch. The building is there now
and the minimum separation is 25 feet required but it's actually 24 feet 4 inches.

Chairman Richard McClernon - Are there any issues Jim Carnell? Jim Carnell – No.

PUBIC COMMENT:

No public comment.

The Board as no questions.

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

AREA VARIANCE CRITERIA:

- (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

Pamela Zaitchick– Did the person who did the foundation incorrectly get punished?

Mr. Kohn – Yes.

Chairman Richard McClernon - They had to pay the Zoning Board fees.

A motion to approve the area variance was made by Robert Hoose and seconded by Jay Mendels
4 In favor; 0 opposed

We have a 239 on file and it was local determination.

Appeal by: NOB HILL COUNTRY CLUB INC

Property is located in the SR zone with central water/sewer at 4599 State Route 42, Kiamesha Lake, NY
S/B/L: 9.-1.51

Applicant is requesting a(n) area variance from code §250-7 of the Town of Thompson Zoning Code for the following, purpose row housing required 10 acres to proposed 9.24 acres.

Jay Zeiger, Esq, on behave of the applicant

Satisfactory proof of mailing was provided to the Board.

We have a 239 on file and it was local determination.

Mr. Zeiger -I am here for the third time. What you are looking at today is the same exact thing you saw last time I was here. Previously we needed a variance for some of the buildings and all of those were granted. This project is for 10 acres on Lot two and Lot three for row houses. Originally our engineer calculated the 10 acres to include Lot three. We had a workshop meeting with Richard McGoey and Paula Kay, they said you can't count Lot three because it was separated by Route 42. That made this area below the 10 acres needed. Our first variance is for row houses on 9.24 acres and the second is for everything that is being built is a new row house and the exciting bungalows will be renovated and fixed, some are two family and will be converted to a single-family home. We are here for an interpretation weather you can have a row house development of three row house with single family homes.

Mr. Zeiger - All of the issues we have discussed are the same and we have satisfied these criteria's.

Chairman Richard McClernon – You are here just for the acreage! Mr. Zeiger – The application was for both. Paula Kay – We have a small technicality; our owner’s proxy is for Randy Wasson or Wasson Engineering. Mr. Zeiger – If I represent to you that I have full knowledge and consent to be here will that work? Paula Kay – You will have to fill out a new owner’s proxy. In the application, it does show the 10 acres plus the interpretation for the row houses. Since no one is here for the variance notice and you have been here three times before I don’t have a problem with doing both of these. Let’s just do one at a time.

Pamela Zaitchick – I’m wondering how did we get here three time? Paula Kay – As the planning process continues we start to look at the plans with more details and things start to come up. During the review, we noticed that 10 acres could not be done because of the road splitting the property. So, we told Nob Hill that they needed to come in for a variance since they don’t actually have the 10 acres. Pamela Zaitchick – Ok, but now there are other issues that just came up because the interpretation was not on the application. Paula Kay – But it was. It just wasn’t listed on the Agenda for Tonight. We are going to do them separately, first I would like you to do the variance request for the 10 acres to the 9.24 acres and then do the interpretation.

Mr. Zeiger – The criteria are the same as the last time and the first time we were here as well as when we were in front of the Planning Board. All the issues we have discussed are all the same and have been satisfied on two separate occasions for the Planning Board and assume they will be satisfied here as well.

PUBIC COMMENT:

There was no comment from the public.
The Board as no further questions.

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

AREA VARIANCE CRITERIA:

- (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 for the application of the acreage, from 10 acres to 9.24 acres was made by Pamela Zaitchick and seconded by Jay Mendels
4 In favor; 0 opposed

Paula Kay – We have 2 types of uses that are proposed in this subdivision. Is this correct Mr. Zeiger?

Mr. Zeiger – Yes, the row house and the single family. The single family is essentially preexisting.

Paula Kay – The question is whether we can have those two different types of uses in the same lot. Our code does not prohibit it. Jim Carnell – Zoning map does talk about more than one uses on a property with certain criteria. The reason we are here is because there are duplexes they want to build in between them and make it part of the row houses. We were concern about the existing structures being on piers and the new building will have foundations. Property owner’s representative, myself and Richard McGoey all went out to the site for a field inspection and they did a report on how they can upgrade some of the existing structures. The other issue that came up was that some of the existing building are under individual ownership and that is why those will remain as a single home. The original development did not have new buildings they had buildings in between. What are they proposing now is building new building that are up to code with foundations?

Jay Mendels– Is this prohibited or not prohibited? Paula Kay – It’s not specifically prohibited.

Pamela Zaitchick– My concern is how will this affect us in the future? Will we always have to decide by project or are we setting a precedent going forward? So that anyone who wants to mix it up will be able to since we are decided it today. Jay – I don’t think we are setting a precedent. Because it’s a preexisting condition that is already there. Chairman Richard McClernon – But the row houses are not there.

Jim Carnell – All the new construction will be row houses. Jay Mendels – But the single-family homes were already there. Chairman Richard McClernon – But what Pamela Zaitchick is saying is that what will happen when someone else comes here wanting to build single family houses with row houses.

Mr. Zeiger – The destination would be that these are existing vs new. In our application, we gave you the opportunity to go the other way and say, we are not comfortable setting that precedent but will give you a variance to allow the mixed use. Pamela Zaitchick– What I want to see if we say yes that they are new and improved. Mr. Zeiger– They will all be renovated. They are being brought up to the current code. Pamela Zaitchick -But they will all be on foundations now? Mr. Zeiger – No, I believe the existing houses that are on piers will remain on piers. Jim Carnell – That I cannot answer. We don’t have plans on the individual units at this time. Mr. Zeiger – But the condition is that they have to meet the current code. Pamela Zaitchick – But the current code doesn’t say they have to be on a foundation? Jim Carnell – If it’s a new building then yes.

Paula Kay - 250-6 E of the Town Code talks about multi uses on one lot. When approved by the Planning Board, shall be compatible with each other and must be a use which would otherwise be permitted in the zone under the Schedule of District Regulations. If we make a determination that this is ok then when they go back to the Planning Board, the Planning Board should make the same determination. This specific multi use or dual use is approved. As long as they are both permitted in the zone then they are ok. Any use that is not specified is deemed to be prohibited. But since both of our uses are allowed in the zone you are ok. When granting multiple use on one lot the minimum area requirement and standards must both be met. Which you can do.

Chairman Richard McClernon – For the single-family home what is the requirements? Pamela Zaitchick – They are both permitted in the zone. It's stated that they are permitted to be together.
Paula Kay - Yes, and you meet the minimum standards for both. It's 10 acres.

Jim Carnell–The density is ok? Mr. Zeiger – Yes.

Paula Kay –Mr. Zeiger tell Randy he needs to update his map for RR, it's two units per acer for single family homes. Chairman Richard McClernon – That's 20 units for single family's. Mr. Zeiger – There is only 7 single family houses. The row houses are four per acer. Jim Carnell – It's actually a SR zone. Paula Kay – The map say's RR. Ok, then it's four units per acer for a single family. Mr. Zeiger –. 3.35 for the row houses.

Jay Mendels – The SR allows how many structures per acre? Mr. Zeiger – Four. Paula Kay – It's 20 with central water and sewer, and 40 without. Mr. Zeiger – Your talking about singles? Paula Kay – Yes.

Mr. Zeiger – The way we look at it is that this is a row house development and we are asking for permission for the single-family houses. Paula Kay – I believe Richard McGoey has reviewed that. Mr. Zeiger – Richard McGoey said we needed to get an interpretation.

Jim Carnell – I don't think density was ever an issue.

Paula Kay – We are treating the whole development as a row house development. You need to decide if they can have both uses on one lot. Whether you believe that the code is potentially allow for both uses on this lot. Pamela Zaitchick – I want to make sure we are covered for the future.

Paula Kay– Based on this section of the code the planning board can say yes. Mutliple uses when approved by the Board can be granted.

Jay Mendels – So if we refer this to the planning Board then we don't have to set a precedent?

Paula Kay – You're not. Jim Carnell – You can make a determination that the two uses are compatible as residential. Paula Kay – Because this involves existing units this is different than any other application that came before you. Because the existing units are single family houses and we are adding row houses to it. Robert Hoose – If they actually tour down those units and put in foundations then we could approve it anyway, right? Paula Kay – No because it would still be a mixed use.

Chairman Richard McClernon – They should tear them down and put up row houses.

Jay Mendels – We are not going to allowing them to come back and say they want to add signal family homes. Jim Carnell – They would have to come back anyway since they would have other issues.

Mr. Zeiger – We wouldn't fit your criteria for your code if we wanted to build anything new there.

Paula – The code says; If an applicant for a multiple use under this subsection requests a variance for any purpose, such request shall be referred to the Zoning Board of Appeals and shall stay any meetings, hearings or other action by the Planning Board until such time as a decision on the variance shall be made by the Zoning Board of Appeals. The Zoning Board of Appeals needs to make a decision on this interpretation and then we will ask the Planning Board to do the same thing.

Pamela Zaitchick – I just need a better clarification. These are newly renovated houses?

Paula Kay – They are not yet. The property contains existing signal family homes and the proposal is to add new row house. So that would be two uses, both are under the permitted SR zoning.

Rob H – I would vote yes but they have to be renovated, not just say that they are going to be.

Mr. Zeiger – Jim Carnell can set the agenda on that. They are trying to make this a very nice development.

Mr. Zeiger- With condition of the interpretation is that no additional signal family will be constructed and the existing signal family will be brought up to building code.

A motion the interpretation of mixed row houses with conditions was made by Pamela Zaitchick and seconded by Robert Hoose

4 in favor; 0 opposed

Choice Properties of Monticello

Property is located in the HC-2 / central W/S zone at 4370 State Route 42, Monticello NY S/B/L: 13.-3-39

Applicant is requesting a(n) area variances from code §250-11 of the Town of Thompson Zoning Code for the following purpose 1) the front yard setback from the required 50 feet to the proposed 44 feet 2 inches, 2) the rear yard setback from the required 50 feet to the proposed 25 feet 8 inches, 3) rear yard setback from the required 50 feet to the proposed 28 feet 6 inch.

Bill Norton - Mercurio, Norton, Tarolli, Marshall

Satisfactory proof of mailing was provided to the Board.

Mr. Norton – Trying to revamp the Velaro Gas Station. The changes will be, 2 more pumps, a canopy and a 150 square foot addition on the back of the building. The building will have a new facet like the Taco Bell and the roof will be peaked. The large bank on the side will be graded and we will be added 10 parking spaces along the property line by Golden Ridge Road. The drive through will remain, the with will be doubled with a new retaining wall on the back. Up toward the Shop Rite's entrance the 8-foot hill will be graded for additional parking. The existing fuel tanks will be replaced and moved. The enter/exit will remain the same as well as the building will be the same except for the addition on back.

Jay Mendels – Will it flow better with new canopy? Mr. Norton – Yes it will

Pamela Zaitchick – How does it work will the tanks being moved. Mr. Norton – They will put pips in the ground. Pamela Zaitchick – I'm sure there are some kind of rules with these tanks correct? Mr. Norton – Yes, that is why the tanks are being moved and they have to be upgraded because we are adding two more pumps.

Chairman Richard McClernon – Can they make the pumps more parallel on an angle? So they can use both sides? It makes it easier to go in and out. Instead of having to go around the building to use the other side of the pumps. Mr. Norton – Engineers have look at it closely with the traffic flow. I'll ask if they could turn them.

Mr. Norton shows the board the map and discussed the location of the pumps.

Paula Kay – Do they really need to drive through? Mr. Norton – Yes, even today it's very busy.

Mr. Norton – We are modernizing the building to make it fit in with the other business in the area. We need a variance for the following; rear yard and front yard for the canopy and the corner of the building for bathroom addition.

Pamela Zaitchick – Can you access this business from Golden Ridge Road? Mr. Norton – No

Paula Kay - We have a 239 on file with no traffic comments.

PUBIC COMMENT:

No public comment.

PUBIC COMMENT CLOSED

The Board as no further questions.

A motion for negative declaration motion under SEQRA was made by Pamela Zaitchick and seconded by Robert Hoose

4 In favor; 0 opposed

AREA VARIANCE CRITERIA:

(1) Whether benefit can be achieved by other means feasible to applicant; All voted no

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(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 for application was made by Pamela Zaitchick and seconded by Robert Hoose

4 In favor; 0 opposed

Motion to adjourn meeting 7:46 by Robert Hoose and seconded by Jay Mendels

4 in favor; 0 opposed

Respectfully submitted,



Debbie Mitchell

Secretary

Town of Thompson Zoning Board of Appeals