

APPROVED

TOWN OF THOMPSON
ZONING BOARD OF APPEALS
September 10, 2024

IN ATTENDANCE: Jay Mendels, Acting Chairman Dana Heimbach, Alternate
Phyllis Perry Laura Eppers, Secretary
Cindy Ruff Steve Vegliante, Consulting Attorney
Darren Miller, Alternate
Jim Carnell, Building Planning, Zoning

Jay Mendels called the meeting to order at 7:10 p.m. with the Pledge to the Flag.

Jay Mendels appointed Darren Miller and Dana Heimbach as voting members for tonight's meeting.

The Brasington Family application was first on the agenda; however, they did not have the proof of mailings with them and asked if it would be okay to run home and get them.

A motion to take the agenda out of order, to give the first applicant time to get their proof of mailings, was made by Jay Mendels and seconded by Phyllis Perry.
All in favor, 0 opposed

APPLICANT: PUNKABOO PROPERTIES

15 Hoffman Road
Monticello, NY
S/B/L: 45.-5-10.2
Carol McEneaney, Applicant

Applicant is requesting an Area Variance from §250-7 of the Town of Thompson Zoning Code for (1) Percent of lot coverage from required 20% to proposed 28.5% (previously approved at 23.5%) (2) Front yard setback from required 40' to proposed 9' (previously approved at 18'). Property is located at 15 Hoffman Road, Monticello, NY. S/B/L: 45.-5-10.2. In the Zone: SR with central W/S

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Jay Mendels – You were previously before us for this property and now you are back, so tell us why.
Carol McEneaney – When we started the work, we realized the foundation was going to be a bit higher than I thought. I thought we would only need some steps down to the patio, but it is a bit up there, so it would need more stairs. I don't want a lot of stairs going down, to the lake, so I thought it would be better to have a deck. With that being said, we are now proposing to have an 8-foot deck on the back instead.

Jay Mendels – The original plans you gave us included a deck in the design, correct? Carol McEneaney – Yes. Jay Mendels – So, it was going to be a deck with some stairs down to a patio and now you are

looking to fill that footprint with more house and still have a small deck, right? Carol McEneaney – Yes. Jay Mendels – And what will the size of the deck be? Carol McEneaney – It will be 8 feet towards the water and the width of the house. Steve Vegliante – Does the structure you were originally going to build stay the same size now? Carol McEneaney – Yes. That is not changing. We are just looking to have a deck in place of the patio. Jay Mendels – Just to let everybody know, we did approve this previously for an 18-foot setback and now they are asking for feet and for 23.5% lot coverage and now they are asking for 28.5%. It's a small lot and we encounter this a lot with the lake communities. So, in my opinion, it's still in the acceptable range.

Phyllis Perry – How many stairs would have needed now? Carol McEneaney – At least 5. Phyllis Perry – And you are saying that is too many for you? Carol McEneaney – To walk down to the water, I think so. Plus, I have all glass across the back deck.

Jim Carnell – Is the foundation so high because of the water table there? Carol McEneaney – Yes, that is what they are telling me and I did not realize that when I got my first variance.

Dana Heimbach – Is there an HOA? Carol McEneaney – No and I am the neighboring properties. Jay Mendels – And this is not out of character with the neighboring properties.

Jim Carnell – Also, as we discussed in the work session, one of the reasons the house is so close to the lake is because one of the Town's main sewer lines runs through their property. The way they originally designed the plans, they would not have needed a variance, but they didn't know the sewer main ran through the property. That is why they had to move it up. Jay Mendels – Meaning bringing it closer to the water? Jim Carnell – Correct.

No further questions or comments from the Board.

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

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

The Board agreed to vote on all requested variances together.

(1) Whether benefit can be achieved by other means feasible to applicant; 1 voted no (Cindy Ruff) and 4 voted yes

(2) Undesirable change in neighborhood character or to nearby properties; All voted no

(3) Whether request is substantial; All voted no

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

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

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

APPLICANT: DAVID ETTEMBERG

200 Starlight Road
Monticello, NY
S/B/L: 57.-2-8

Applicant is requesting an Area Variance from §250-9 & 21B(4) of the Town of Thompson Zoning Code for (1) One side yard setback from required 20' to proposed 15' (2) Combined side yard setback from required 50' to proposed 42.8' (3) Increasing a nonconforming – not permitted. Property is located at 200 Starlight Road, Monticello, NY. S/B/L: 57.-2-8. In the Zone: RR-2

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Steve Vegliante was recused.

David Ettenberg – I bought this building 26 years ago, but never really used it. I am the owner of Camp Shane and we bought it for the water when my house didn't have water. So, we bought it just for the water and never really used it okay. Then two days later a guy comes up to my house and says we can't be there because we are residential, but we are not. So, I shut all the water down since they didn't want us there. And all that time I am paying for it okay. So, this is a tiny, tiny place. It is hard to explain, but I will show it to you because I brought the model with me. So, this is the layout and it would sit with the water over here. I have been working on this for 6 years now and all I asked for was a bigger bedroom because it is so small that it is hard to get out of the bed. The bedroom is here in the back and all I want is it to go out another 5 feet.

Jay Mendels – So, you want to extend the deck going this way? David Ettenberg – It's not a deck. Phyllis Perry – I pulled up the site plan. It looks like he just wants to put this small rear addition here. Jay Mendels – Is it the lake side? Phyllis Perry – No. The lake is here. Jay Mendels – Okay. Phyllis Perry – So, you are just asking to put a small 5-foot addition on the back for the house? David Ettenberg – Yes and they told me the reason why I have to come here is because of something to do with the state. Jay Mendels – It needs to be brought into compliance. David Ettenberg – Yes and I'm here to see if anyone around here doesn't like that.

Jay Mendels – The side yard setback being requested is required to be 20 feet and 15 feet is being proposed, but that is pre-existing and not changing, correct? And the addition would be staying within that, right? David Ettenberg – I just want to go straight out this way. Jay Mendels – And not over this way any? David Ettenberg – No. Jay Mendels – Okay, you will be staying within the existing setbacks. Now, that is 15 feet on this side; on this side, is the deck already there? David Ettenberg – Yes. Jay Mendels – It looks like it is marked at 15.8 feet. David Ettenberg – But I already got a permit for that. Jay Mendels – Right, but it was noticed for a proposed 42.8 feet. You have the 15 feet here and 15.8 feet there, so it should have been noticed for 30.8 feet. So, I think it was noticed incorrectly. David Ettenberg – I don't know what you mean. I came here to talk about this and was told that I would probably be allowed to do it unless somebody had a problem with it. Jay Mendels – Am I seeing something incorrectly? Phyllis Perry – So, from here to here is 20.8. Jay Mendels – But the deck is included in

setbacks. Jim Carnell – If it is more than a foot off the ground. Jay Mendels – Is it more than a foot off the ground? David Ettenberg – Yes, it is up off the ground. This is going back for many years and I have a permit for this side okay, so what I am looking for now, is just this back portion here. That's it. I already have this one. Jay Mendels – Right, but it still needs to be noticed correctly to the public. Jim, what do we do in this case? Jim Carnell – It will have to be re-noticed. Phyllis Perry – If the deck is pre-existing, maybe this 27.8 is why it was noticed how it was. Jay Mendels – Jim, does that make sense? Jim Carnell – That's possible if it was already approved. Jay Mendels – Okay. Phyllis Perry – So then the notice may be right. Jay Mendels – In that case we can approve it at the 42.8 feet and it doesn't matter if the deck is closer than that? Jim Carnell – Generally we would want to make sure the measurements are true because it will also affect the combined side yard setback. Jay Mendels – Also, we don't have any specifications on what you are building and how far it is going out. I don't see it on the plan. I see the outline penciled in here, but no measurements and it looks like it goes right up to the well. David Ettenberg – It is going out 5 feet. Jay Mendels – Okay, but is that anywhere on here? Phyllis Perry – I don't see it. Jay Mendel – And then it goes right up to the well. Are there any setbacks from the well? Jim Carnell – I'm not sure. Jay Mendels – So that may end up being an issue too. Jim Carnell – The DOH would regulate that. Jay Mendels – Okay. Then what I would like to see is this re-noticed correctly, so that the records are correct, and more details on the drawing showing exactly what you are going to be adding. David Ettenberg – I have it here, no worries. Jay Mendels – Do we have that on the Drive? Laura Eppers – It may have been submitted with the building plans and is in that file. David Ettenberg – Well, it is here so you can take a look. This was done by Joseph Gottlieb and it is stamped too. Jay Mendels – And didn't you have Tim Gottlieb on the proxy as the representative? David Ettenberg – No, it was Allan Frishman and he put this whole thing together for me. Jay Mendels – Okay and I see the 5 feet here, so that would make sense why it was noticed like that. That just leaves the well. Obviously, that is not up to us, so would it go before the Planning Board? Jim Carnell – No, but the Building Department can check with the DOH. If it's an issue, they can apply for a waiver or maybe they won't need one since both the well and the house are existing. Jay Mendels – Should that be done prior to our approval? Jim Carnell – No, you can approve it conditioned on that and it would have to be done prior to issuing the permit for the addition. Jay Mendels – Okay, so unless the Board is not okay with it, I am going to consider the 27.8-foot setback is the number we are using. Which would be 27.8 on one side and 15 on the other making a combined side yard setback of 42.8 feet. Phyllis Perry – Yes, I agree. Darren Miller – I'm good with that.

No further questions or comments from the Board.

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

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

(1) Whether benefit can be achieved by other means feasible to applicant; 2 voted yes (Phyllis Perry & Cindy Ruff) and 3 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 requested variances, subject to DOH review, was made by Phyllis Perry and seconded by Cindy Ruff.

All in favor, 0 opposed

Jay Mendels – All you have to do now is get in touch with the Department of Health in regards to the proximity of the well and then you can get your building permit. Jim Carnell – It may be easier for us to get a hold of someone at the DOH. Jay Mendels – So, what should he do next to make sure this gets done? Jim Carnell – Well, we won't issue the building permit until that's verified. Jay Mendels – Will you let him know when that is done. Jay Mendels – Yes, because he will have to come pick up and pay for his permit. Jay Mendels – Okay.

APPLICANT: THOMPSON'S OWN SOLAR

Downs Road

Monticello, NY

S/B/L: 16.-1-30.2

Robert Romine, Project Representative

Applicant is requesting an Area Variance from §250-92C(1) of the Town of Thompson Zoning Code for (1) Maximum solar panel height at maximum tilt from required 16' to proposed 18.5'. Property is located on Downs Road, Monticello, NY. S/B/L: 16.-1-30.2. In the Zone: RR-1

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Robert Romine – Good evening, my name is Robert Romine, with ClearPath, and we are the developers representing the applicant. Jay Mendels – Do we have a Proxy on file for you? Steve Vegliante – They do. I think it may just be filed with the Planning Board application. Jay Mendels – Okay. Robert Romine – This is the site plan that we submitted to the Planning Board. The panels being used for this solar project are articulating panels, so that they can rotate from East to West, to follow the sun. The issue here is that your code has a max height of 16 feet and have encountered that at max tilt, some of the panels will exceed that for around an hour or so, once at the start of the day and then again towards nightfall. We took a pretty detailed look into the grading of the site and what panels may potentially exceed the max height, and we are showing those here in red. I also have a blown-up view here of the actual racking system, so you can get a better understanding of how we got our calculations. Most of the panels are on a flat grade and when they are lying flat, they will be 9.5 to 10 feet from grade to the center axis, which is at noontime. Then as it tilts to follow the sun, it can get up to 15 to 16 feet tall at max tilt. However, in the places that there is rolling terrain, we run into the height issue because the land is raised in that particular area. This is a view of the panels if I were looking straight down and you can see that we have 2 rows of panel mounted on 1 single asceses, called a twerk tube, that is driven by 1 motor. If we were simply to raise this whole axis a little higher, by 2 maybe 2.5 feet, there would be no issue with the grade. We do not want to cut and fill because we are trying to limit the environmental

impact, so that is why we are here tonight seeking relief for those couple feet. There is one other thing we could do to comply, and that is to limit the amount the panel tilts. We can change our software to constrain the distance they tilt so that they won't get up to the full 90 angle. Jay Mendels – But this is not all of the panels we are talking about and it is not all day long. Robert Romine – Correct. Jay Mendels – And they are not purposely oversized, correct? Robert Romine – There are a variety of sizes for panels, but these are pretty standard and there are larger ones than this available. Jay Mendels – Okay.

Jay Mendels – You mentioned the environmental impact so I'm just curious, what is the 69 acres currently used for? Robert Romine – It is forested, vacant property. I don't know if the owner hunts there, but I know he does harvest some timber on a 10-to-20-year cycle. Jay Mendels – So, you are pretty much going to clear cut 69 acres. Robert Romine – Not the entire property. The acreage to be fenced in is the 42 acres shown here and the remaining acreage extends off sheet up here. This is the limit of clearing here and this area will remain untouched. We are also leaving a tree buffer along the road. Which is about 50 feet wide at its smallest point here and gets wider as you move up the road. Jay Mendels – Good. I would hate to see all of those trees taken down for environmental reasons. But I understand the need for the solar panels.

Dana Heimbach – You said they can be coded to not tilt as much, can that be done to just 1 panel? Robert Romine – It's done through software, so each twerk tube is driven by 1 motor that tells it when to tilt. We could program it to not tilt as much, but we would lose some production. The idea is to follow the sun for the duration of the day, so if the panels have to stop tilting at a certain point, we lose that remaining sunlight. Dana Heimbach – Right, but will changing the code affect all of the panels? Or can you select certain ones, like from the areas you have indicated, to stop at a certain height? Robert Romine – That I'm actually not sure of. Dana Heimbach – Okay. Steve Vegliante – I believe that question was also asked at the Planning Board meeting and if I remember correctly, stopping the panel at a certain height will also create some shadowing on other panels. Dana Heimbach – That makes sense. Jim Carnell – And I think I remember them saying at the Planning Board meeting that it would affect multiple panels, not just one. Steve Vegliante – And it is a fairly substantial drop in production, I think. Robert Romine – Right and the idea is for them to move at full tilt from one side to the other. These tracking panels are a new evolution because before the panels were on a fixed tilt and didn't move. The whole idea with the tracking is for efficiency purposes. They also tried a dual tracker method where it would tilt all 4 directions, but it proved not to be cost effective. So, this here is kind of where the industry is heading. Jay Mendels – It makes sense.

No further questions or comments from the Board.

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

A motion to close the public hearing was made by Cindy Ruff and seconded 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 effect; All voted no

(5) Whether alleged difficulty is self-created; 1 voted yes (Cindy Ruff) and 4 voted no

A motion to approve the variance as requested was made by Phyllis Perry and seconded by Dana Heimbach.

All in favor, 0 opposed

The Brasington Family applicant returned with their proof of mailings.

BRASINGTON FAMILY

20 Old Liberty Road

Monticello, NY

S/B/L: 50.-1-82.15

Arden Brasington, Applicant

Applicant is requesting an Area Variance from §250-16B of the Town of Thompson Zoning Code for (1) Accessory building closer to the road than the main building – not permitted. Property is located at 20 Old Liberty Road, Monticello, NY. S/B/L: 50.-1-82.15. In the Zone: RR-1

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Arden Brasington – We are putting up a 12'x26' prefab shed that will sit a little in front of the house. However, it will be 165 feet off the road as we are 255 feet.

Jay Mendels – Why is that the best spot for it? Arden Brasington – It is going to house a couple of my play toys and that is really the best location for it. Jay Mendels – Is there a reason you can't just push it back some? Jim Carnell – I believe the septic is on the one side. Arden Brasington – Right. I can't put it where I really want to put it because of the septic. This is the best location for us. Steve Vegliante – So, is the septic directly next to the house on this side? Arden Brasington – Yes. Jay Mendels – And that is why it cannot be brought back in-line with the house? Arden Brasington – Right. Phyllis Perry – And it looks like there are a lot of trees between the road and where the shed will be. Arden Brasington – There is. Phyllis Perry – That's Nice. Arden Brasington – Thank you.

No further questions or comments from the Board.

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

A motion to close the public hearing was made by Cindy Ruff and seconded by Darren Miller.

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 the variance as requested was made by Darren Miller and seconded by Dana Heimbach.

All in favor, 0 opposed

The next application on the agenda was for Christian Farias, however the applicant was not present when the application was called.

A motion to take the agenda out of order, to give the applicant time to appear, was made by Dana Heimbach and seconded by Phyllis Perry.

All in favor, 0 opposed

APPLICANT: FELLENER ENGINEERING

113 Lake Shore Drive

Monticello, NY

S/B/L: 42.-13-1

Eric & Marjory Fellenzer, Applicants

Applicant is requesting an Area Variance from §250-9 & 21B(4) of the Town of Thompson Zoning Code for (1) One side yard setback from required 20' to proposed 0' (2) Increasing a nonconforming – not permitted (3) Combined side yard setback from required 50' to proposed 0'. Property is located at 113 Lake Shore Drive, Monticello, NY. S/B/L: 42.-133-1. In the Zone: RR-2

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Eric Fellenzer – This is our house here, which has an existing deck here, and we are just looking to extend that deck. Jay Mendels – That's it? Eric Fellenzer – Yes. Jay Mendels – And as far as the increasing setback goes, you are still staying in line with what is already there? Eric Fellenzer – Yes and there is a little screened-in porch underneath. Steve Vegliante – Below the deck? Eric Fellenzer – Yes. It is 6'x16' and I store things under there. Jay Mendels – So, you have room underneath the deck because the land slopes down, so you use it as screened-in storage? Eric Fellenzer – Yes. Jay Mendels – Okay and it looks like you are extending it 6 feet? Marjory Fellenzer – Yes. The addition will be 6x16; out an additional 6 feet and then 16 feet along the width of the existing deck. Jay Mendels – And it looks like that is not even the full length of the existing deck? Marjory Fellenzer – Correct. Jay Mendels – The bottom will be screened-in, but will the top of the deck still be open? Marjory Fellenzer - Yes. Darren Miller – So, they are just looking to come out 6 feet this way? Jay Mendels – Yes and they will be going out to the existing setback of the house. Darren Miller – Okay. Jay Mendels – Jim, is there any restrictions as to what they can do under the deck? Jim Carnell – No. Jay Mendels – Okay.

No further questions or comments from the Board.

The meeting was opened up to the public for comment.

Erik Rhulen – Appeared in person and emailed in written correspondence with questions/comments concerning the right-of-way located on the property and unpermitted work being done. However, the Board determined that the variances being requested tonight did not have any to do with either of those and they do not pertain to the items being address tonight.

No further questions or comments from the public.

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

(1) Whether benefit can be achieved by other means feasible to applicant; 4 voted no and 1 voted yes
(Phyllis Perry)

(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 effect; All voted no

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

A motion to approve all variances as requested was made by Dana Heimbach and seconded by Darren Miller.
All in favor, 0 opposed

APPLICANT: MARK JOHNSON

10 Gold Point Road

Rock Hill, NY

S/B/L: 37.-13-4

Mark and Terri Johnson, Applicants

Applicant is requesting an Area Variance from §250-8 of the Town of Thompson Zoning Code for (1) Rear yard setback from required 50' to proposed 34.6' (2) One side yard setback from required 20' to proposed 11.4' (3) Combined side yard setback from required 50' to proposed 27.1' (4) Once side yard setback from required 20' to proposed 15.7' (5) Percent of lot coverage from required 10% to proposed 25%. Property is located at 10 Gold Point Road, Rock Hill, NY. S/B/L: 37.-13-4. In the Zone: RR-1

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

HOA approval was received.

Teri Johnson – We are here tonight because we own a small lake community property, which are typically small, and we were hoping to be able to replace the small, existing cabin with a full-bodied house. Jay Mendels – Okay, so that cabin will be coming down? Teri Johnson – Yes. Mark Johnson – It is not in good enough shape to keep it. Jay Mendels – Okay and we do have a picture of the property here and looking at the identified setbacks, there is no way you can stay within them. Which like you said, is something we encounter all the time with lake communities. Plus, you are taking down a delapidated structure and building something nice in its place. Also, we have received written HOA approval.

The meeting was opened up to the Board.

Cindy Ruff – Is there also a garage on the property? Mark Johnson – It is a little shed. Cindy Ruff – It is listed as a garage here. Teri Johnson – It is just a shed. There is no garage door or anything like that and it is not even big enough to fit a vehicle. Cindy Ruff – Is that coming down as well or is it staying? Mark Johnson – It will probably come down eventually, but we are going to keep it to house tools during construction. Jay Mendels – Makes sense.

No further questions or comments from the Board.

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

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

The Board agreed to vote on all requested variances together.

(1) Whether benefit can be achieved by other means feasible to applicant; 1 voted yes (Cindy Ruff) and 4 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 effect; All voted no

(5) Whether alleged difficulty is self-created; 1 voted yes (Cindy Ruff) and 4 voted no

A motion to approve all variances as requested was made by Dana Heimbach and seconded by Darren Miller.
All in favor, 0 opposed

APPLICANT: ROBERT LOUNSBURY

190 North Shore Road
Rock Hill, NY
S/B/L: 37.-4-25

Applicant is requesting an Area Variance from §250-8 & 21B(4) of the Town of Thompson Zoning Code for (1) Garage setback from side property line from required 20' to proposed 2.2' (2) Percent of lot

coverage from required 10% to proposed 15% (3) Increasing a nonconforming – not permitted.
Property is located at 190 North Shore Road, Rock Hill, NY. S/B/L: 37.-4-25. In the Zone: RR-1

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

HOA approval was received.

Robert Lounsbury – I am here tonight because I am looking to add a lean-to space to the side of my garage for more dry storage space. Jay Mendels – So, not enclose? Robert Lounsbury – No, it is a lean-to. Jay Mendels – And over all it looks like it will extend about 10 feet and will be the width of the garage, which is 8 feet. Robert Lounsbury – Yes. Jay Mendels – And it is on the side of the garage closest to the house, so no one will see it, right? Robert Lounsbury – Yes. Jay Mendels – And I see we also have HOA approval for this on file.

The meeting was opened up to the Board. No questions or comments from the Board.

The meeting was opened up to the public for comment.

Jeff Sohns @ 200 North Shore Road – Had no objections to the variances being requested and thinks it will be an improvement to the area.

No further questions or comments from the Board.

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

The Board agreed to vote on all requested variances together.

(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 effect; 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 seconded by Cindy Ruff.
All in favor, 0 opposed

APPLICANT: PETER CACCIOPPOLI

8 Crescent Circle

Rock Hill, NY

S/B/L: 54.-3-8

Applicant is requesting an Area Variance from §250-7 & 21B(4) of the Town of Thompson Zoning Code for (1) One side yard setback from required 15' to proposed 13' (2) One side yard setback from required 15' to proposed 7.2' (3) Combined side yard setback with W/S from required 40' to proposed 20.' (4) Percent of lot coverage with W/S from required 20% to proposed 29% (5) Increasing a nonconforming structure – not permitted. Property is located at 8 Crescent Circle, Rock Hill, NY. S/B/L: 54.-3-8. In the Zone: SR with central W/S

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

HOA approval received.

Peter Caccioppoli – We purchased this property in 2014 and it has an existing deck, which is a very odd shape and is now starting to rot. The reason you guys see 2 sets of plans there, is because the first one was a dream deck and the second was the reality deck. The first one would have encroached more onto both properties and would have required additional variances, due to its size. The second plan has a much smaller deck on it that will basically just square off the original deck. There is also a staircase where the deck ends that you cannot see in this image. Currently there are 2 steps down and then some pretty steep grading down to the lake. Neither myself or my mom can get down there, so we are proposing to add a staircase that will go down to level ground by the water. And those will extend beyond the deck.

Jay Mendels – So, the deck will still extend out past the back of the house? Peter Caccioppoli – Yes, but it used to be at a weird 45-degree angle and now we are just squaring it off and there will be a bigger staircase down to flat ground. Jay Mendels – So, you are staying within the existing setbacks, right? Peter Caccioppoli – Right and the only thing anyone will see is the staircase coming down the hill.

Dana Heimbach – You have an HOA, right? Peter Caccioppoli – Yes. Jay Mendels – And they did send an email stating they had no issue with them replacing the deck. Dana Heimbach – Do you have to get the extra stairs approved by them? Peter Caccioppoli – I think the already approved that. Jay Mendels – Yes. They mention the addition of the stairs in their approval. Dana Heimbach – Okay.

Jay Mendels – Okay, so it looks like you are also replacing something with something better. Peter Caccioppoli – Yes and I will be retiring soon, so I hope to spend the next 20 years on this deck.

No further questions or comments from the Board.

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

A motion to close the public hearing was made by Darren Miller and seconded by Dana Heimbach. All in favor, 0 opposed

The Board agreed to vote on all requested variances together.

(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 effect; All voted no

(5) Whether alleged difficulty is self-created; 4 voted no and 1 voted yes (Jay Mendels)

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

APPLICANT: CAROL COHEN

124 Starlight Road

Monticello, NY

S/B/L: 57.-2-29

Dick McGoey, Representative

Marty Miller, Attorney

Applicant is requesting an Area Variance from §250-16A(2), 16A(3) & 16B of the Town of Thompson Zoning Code for (1) Accessory building maximum size from required 400 sq. ft. to proposed 1,161 sq. ft. (2) Accessory building on a lot without a main dwelling – not permitted (3) Accessory building setback from property line from required 10' to proposed 1'. Property is located at 124 Starlight Road, Monticello, NY. S/B/L: 57.-2-29. In the Zone: RR-2

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

After some discussion between the Board, and their consultants, and the applicant's consultants, it was determined that the second variance being requested was no longer required, as the shed that prompted the request has been removed, and the first and third requested variances were accurate and still required.

Jay Mendels – So, we are just looking at the 2 requests tonight; the size of the accessory building and its setback from the property line. Which happens to be considered the front of the property because it is a lake front property and the lake side is considered the front. Dick McGoey – Correct. Phyllis Perry – And you are just looking to put a new shed? Dick McGoey – The shed is already existing. Phyllis Perry – So everything is pre-existing and you are requesting the variances to make it all legal? Dick McGoey – Yes. Phyllis Perry – Okay, got it. Jay Mendels – And the section that was torn down, will not be going back up, right? Dick McGoey – No. Jay Mendels – Okay.

No further questions or comments from the Board.

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

A motion to close the public hearing was made by Darren Miller and seconded by Dana Heimbach.
All in favor, 0 opposed

The Board agreed to vote on the two pertaining requests together.

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted no

A motion to approve the first and third variances as requested was made by Cindy Ruff and seconded by Phyllis Perry.

All in favor, 0 opposed

APPLICANT: GARDEN COTTAGES (98 VARNELL)

98 Varnell Road

Monticello, NY

S/B/L: 18-1-40

Marty Miller, Attorney

Joel Kohn, Representative

John Fuller, Engineer

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 no central W/S

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Joel Kohn – The last time we were here for this project, the Board requested to see that there will be adequate water and sewer for this project and that is why we have brought our engineer, John, tonight.

Marty Miller – Before we get into all of that, we previously talked about density. We appreciate the fact that this particular use defines that we would require 10 acres, but 10 acres would allow a significant number of units, and we are only talking about a few units here with both of the structures being pre-existing. We are not looking at add or expand and part of the reason a larger lot is required, is because there are typically other amenities that come along with having multiple units, but that is not the case here because those facilities are already in place on the adjoining lot. There is a lot of vacant land not being used here. We all agree and understand that this is, in many respects, part of the adjoining colony. There was a question as to why can't we just link them. We linked them in terms of use, but we can't link them legally. The reason for that is because if we link them, this property then becomes a bungalow colony, which is not permitted in the SR zone, and is the same exact issue we are having with the other property. It has always been an independent property and we are not seeking to expand the foot print of the buildings in any way; just keep what is already existing and convert the house into 3 units. Think the question is whether or not we can do that properly and safely. The 2 issues were the water and

sewer. The variance is for the use and to allow us to convert the single-family into 3 dwellings. The building, the road and the property lines all pre-exist, so we cannot just simply move the building within the setbacks. Also, I want to point out that the intrusion into the 40 feet setback is less than 8 feet and that is just a small portion of the building. With that being said, I will turn the meeting over to John, who I think John is in a better position now to answer the Boards questions on water and sewer.

John Fuller – I am the professional engineer who has been working with Joel and Marty in regards to these properties. It is my understanding that there is some concern about the water and sewer at this property and the one next door. I have been to both properties several of times, but as for this on in particular, I have been working on plans for what was historically a single-family dwelling. Based on the size, its orientation, and the space within, I determined it was probably a 4 bedroom at the time of construction. Currently they are looking to have 3 units with 2 bedrooms each, so that would be a total of 6 bedrooms. So, that is 2 additional bedrooms than what this was historically built for. However, for this property and the one next door, back when these structures were originally built, they did not have the water saving fixtures that are used today. This has undergone partial renovation now and we will certainly go through further renovation prior to the granting of any C/O. At the time this was built we were looking at water fixture that often resulted in what we determined to be 150 gallons per day per bedroom. Now, with current technology and facilities, we can determine that to be around 110 gallons per day per room. That would have been 600 gallons per day for the 4 bedrooms, but using the updated fixtures today, results in a design rate of 660 gallons per day. Which is about a 10% increase of flow for this type of structure. The well and septic were both existing and due to the age of the buildings, there is no documentation associated specifically with the septic. So, we conducted what is called a die test, which is the process of inducing water into the system over a 24-hour period to match the gallons per day that we are trying to achieve, to determine if there is any failure or if a backup would be needed. We did not get any failure and we found that the septic is adequate, in its current format, to accommodate the additional bedrooms. Certainly, there is adequate space on the property, if the septic should ever fail in the future, to be re-designed and a new system installed. In its current state, I can certainly feel and could sign off on the fact that it can handle the flow of the 6 bedrooms. Jay Mendels – That based on a certain amount of water usage per bedroom. Why isn't it per person? John Fuller – That is a question we get all the time and the answer is we go by the Department of Health regulations. The state has established these regulations and there is a lot of history and study that has gone into the way to determine flow per day. Certainly, three small children can occupy one bedroom, or an adult couple, or even a single person. So, these numbers have been generated by the DOH over a historic period of time. Also, a bedroom can vary in size, from let's say a 20x20 to a 10x10, so there are many factors that go into it and it is the regulation that we, as designers, use to analyze, design, and implement systems. Dana Heimbach – And your numbers are based on these newer fixtures, right? John Fuller – That is correct. Dana Heimbach – And how do we know that they currently have these new fixtures? John Fuller – Because they have currently been renovated and it's going to need a C/O. Dana Haimbach – Okay, so they are all new, and do they have to be a special type of fixture? Joel Kohn - No, it's just the new fixture have to be today's standard. Jay Mendels – And this would be something that would be used in any house today, right? You are not doing anything special here? John Fuller – Right, that is what is code compliant. Dana Heimbach – Okay, I just wanted to make sure you guys didn't have to go out and get something special. John Fuller – No and this is something that has been employed for over 30 years and is actually a federal regulation. Dana Heimbach – Okay and you are solely looking at just the septic, right? John Fuller – That is what I just looked at and there is an existing well that services the property. Dana Heimbach – Okay and I think we were concerned about that as well.

Jay Mendels – This is an 1,800 sq. ft. house, so how is that going to be divided up into 3 units? Will there be 3 separate entrances? Will it be designed to look like a row house from the front? What's the plan here? John Fuller – There will be 3 separate entrances, one for each unit. I don't have it with me, but we didn't prepare architectural drawings for the building that delineates the 3 individual spaces. Joel Kohn – Those have been submitted to the building department with the building permit application, so they will have a copy of them. Jay Mendels – Okay, but the plan is not to increase the footprint of the house, right? Joel Kohn – Right. Marty Miller – And there will be no change to the exterior of the structure, other than maybe at some point to update the siding or something like that. Jay Mendels – How is that possible if there is going to be 3 separate entrances? Marty Miller – The entrances already exist. Jay Mendels – Have they been using it as a 3-family house? Marty Miller – It's not occupied. John Fuller – Work was being undertaken, but was stopped. Marty Miller – The footprint remains as is though. Joel Kohn – I just want to make one correction; I think the house was partially occupied over this summer. They didn't finish the work, but I think it was occupied. Jay Mendels – Without permission? Joel Kohn – They didn't have a permit and they didn't have a C/O. But they have applied for permits since.

Jay Mendels – Jim, can you run through 250-7 in regards to multiple dwellings? Jim Carnell – What would you like to know? Jay Mendels – In this zone, do they still require 1 acre for a single-family home? Jim Carnell – No. I believe it is 20,000 sq. ft. with central water and sewer and 40,000 sq. ft. without. Jay Mendels – Okay. So, technically you could build 3 individual houses on the property, correct? Marty Miller – If it was subdivided, we could get 4. And just to clarify we are only talking about 3 units in the house because the 4th one is the trailer, which is a separate pre-existing structure. Steve Vegliante – Does the trailer have its own well and septic? John Fuller – It has shared water, but has its own septic. Jay Mendels – And the main house was built and designed for a single-family house, right? John Fuller – Yes, historically it was a single-family house. Cindy Ruff – Will the house be winterized, or is it already? John Fuller – I don't know the deposition of how they intend to use it, but it is a dwelling unit, so it could be used year-round. Marty Miller – I don't think there is an expectation of year-round because if you look at both properties as a whole, it is a seasonal project. Cindy Ruff – Okay. Phyllis Perry – As far as the inside goes, will there be a shared kitchen? These will be 3 600 sq. ft. units, right? John Fuller – Approximately, yes. Phyllis Perry – So, each unit will have 2 bedrooms, a kitchen, and a bathroom. It's hard for me to envision all of that in that space. John Fuller – Joel may have the floor plans. Joel Kohn – I can pull them up. John Fuller – But, essentially there are 2 bedrooms in each that vary from around 10'x10' to 10'x12'. That gets you around 120 square feet each, so the bedrooms account for about 240 sq. ft. Then there is a bathroom and what I will call a common area, which is basically a kitchen and a dinette, in each one. They are absolutely small units, but it works. Marty Miller – And these are seasonally occupied, so keep in mind that people won't be living there in the winter and storing year-round clothes and items there. They are coming here to enjoy the outside. Phyllis Perry – So, basically you have 3 cottages in one dwelling. Marty Miller – Correct. Joel Kohn – And this is the floor plan here. This will be one kitchen with 2 bedrooms and a bathroom, this is another, and the third one is on the second floor. Cindy Ruff – Okay, so that's not that bad. It looks bigger in print. Steve Vegliante – Thank you Joel. Joel Kohn – You're welcome. Jay Mendels – And the trailer is just for the caretaker? Marty Miller – Yes.

Jay Mendels – If the Board doesn't have any other questions at this time, I would like to hear what the public has to say.

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

The meeting was opened up to the public for comment.

Rosemarie Marcellino @ 11 Van Etten Road – Emailed written correspondence prior to the meeting, which was uploaded to the Google Drive as part of the record. Also attended the meeting in person and expressed:

- All 3 units in the house were occupied over the summer, even though there is no permits or C/O, and witnesses' materials being deceived and workers going into the property after hours when the Town is closed.

Jay Mendels asked Jim Carnell if stop work orders were issued and he advised that multiple was issued for both properties.

- Was reassured by a representative of the applicant at the last meeting that the garbage, which is attracting rats and bear to the neighborhood and is an eyesore, would get cleaned up and it was not.
- There is a lack of parking so vehicles are parked all over the road, sometimes double parked, and people have to drive around them to get down the road.

Link to written correspondence:

https://drive.google.com/open?id=1xwNvtClj5SaDqCi_A7sOhY3iNgvmq9OS&usp=drive_fs

Steve Vegliante confirmed that the pictures received with the written correspondence pertained to this property and not the next-door property, which is the next application on the agenda. Then asked Mrs. Marcellino to explain the pictures to the Board. Rosemarie Marcellino walked the Board through the pictures and confirmed that they were current pictures; taking as of yesterday.

Bryan Vandermark @ 4 Van Etten Road – Had the same concerns and issues as Rosemarie Marcellino and added that the variance being requested for the required acreage is substantial, as it is more than a 50% ask.

Marty Miller – In respect to the clean-up, it is underway. The new HOA Board has hired a clean-up company to start cleaning, fixing, and managing the two properties. Phyllis Perry – Isn't the trailer a caretaker's unit? Shouldn't he be taking care of the property? Marty Miller – I'm not sure if he is fully responsible for the clean-up. It is a large property and I think his responsibilities extend to other issues as well, such as security and repairs. This is a big property and clean-up will take some time. We are not even 10 days after Labor Day yet. As to them not having the full 10 acres, I think the Board recognizes that if they did have 10 acres, they would be able to build 20 units. This is almost 4 acres, so arguably, they could have 8 units. So, in terms of the over all size, we are not looking to overwhelm the site.

Jay Mendels – Does anyone else in the public wish to speak on this application?

Robert VanEtten @ 23 Van Etten Road – Had the below questions:

- Has the well and septic has been approved by the Town of Thompson code enforcement?

Jay Mendels advised that what Mr. Fuller just explained to the Board was, by his calculations and the condition of the existing septic, it can handle the 6 bedrooms being proposed.

- Is the proximity of the well and septic to code?

John Fuller explained that the DOH has regulations for the separation distance between wells and septic systems, which is typically a hundred feet, but in this case, they are pre-existing. Meaning they were built in a time when separation distance was not enforced. Typically, in a situation like this, a water treatment system will be added, which is what was done here and they are typically UV or chlorine

systems. Jay Mendels asked how far apart they are and John Fuller advised that they are approximately 75 feet apart.

Nicole Ziggler @ 16 Van Etten Road – Agrees with everything her neighbor's had to say. Especially the traffic, as it is very hazardous, and the and sewer, because even though they can support 6 bedrooms, there is no telling how many people there will be to one bedroom, and there is a real concern that it may affect the neighboring wells. She is the closest so it will impact her first.

Jay Mendels asked if she has had any impact to date and she advised that the only change she has encountered is that there is now dirt in her water, but is not sure if that is related or not. Robert Van Etten and Rosemarie Marcellino both added that they also have dirt in their water.

David Reich, Member of the Garden Cottages Board of Directors – Explained that a new Board was voted in, in July of 2023, because the old Board became dysfunctional. As part of the effort to address the issues of illegal construction, as well as the issue with the garbage, they hired a management company and invested in a new camera system, to help monitor the property during the off season.

Jay Mendels asked why people were allowed to occupy the unpermitted building over this past summer if these things were put in place and was told by Mr. Reich that the management company was not working out, so they were fired and a new company was hired, at a greater cost. He also reiterated that there is now surveillance on the property and that he has access to all cameras 24 hours a day, so he can now see if there is trash, if work is being done, or even if a tree falls. Jay Mendels then follow up with the questions of why the neighbors are stating and showing pictures of trash currently on the property, if it is being monitored for that. To which Mr. Reich explained that they are looking to invest in more cameras because the ones they have now do not pick up everything. The new wants to address these issues and have 100% coverage on both properties. It is important to them that they work with the neighbors and the town to get everything cleaned up and prevent it from happening again.

Leo Goldman, resident of Garden Cottages – Wanted to address the comments about the parking and stated that they have a large driveway and a nice parking space behind 98 Varnell, so they have plenty of parking. Jay Mendels pointed out that that may be the case, but the neighbors are complaining that people are still parking on the road. Steve Vegliante asked if he was referring to parking for this particular property and was advised that the two properties share the parking area. He cannot attest to why people are parking in the road, but they do have ample parking space. He also added that they are equally as frustrated with all of the garbage and other issues going on at the property and that is why they are implementing cameras and a management company to try and mitigate the issues.

Hershey Werzberger, resident of Garden Cottages – Added that he himself has not only contributed to cleaning the property, but has even clean out on the road, which is not part of the property. So, they working hard to make the place look nice.

Jim Carnell – Since parking has come up a few times, I pulled up 250-22C of the code, which addresses street parking, and multiple dwelling require 1.5 parking spaces for every 2 bedrooms per unit. And since we have established that this is a separate property and application, it should have its own parking. Jay Mendels – So, how many spaces would they need in total. Marty Miller - There are a total of 6 bedrooms, so that would be 4.5 parking spaces. Jim Carnell – That is how the code reads and if there were more than 2 bedrooms, they would be required to have 2 parking spots per unit.

No further questions or comments from the public.

A motion to close the public hearing was made by Dana Heimbach and seconded by Cindy Ruff.
3 in favor, 2 opposed (Phyllis Perry & Darren Miller)

Jay Mendels – The people who are occupying the building, are they owners or tenants? Joel Kohn – Tenants. Jay Mendels – Okay and even though you are stating parking is not an issue, your neighbors are saying it is. Will that somehow be address? Maybe by adding some actual parking spots or clearing some additional space. Joel Kohn – That is something that will have to be shown on the site plan before they can receive their Planning Board approval, so it will have to be addressed so that they can comply. Jay Mendels – Okay and there is an existing driveway into the property, right? Joel Kohn – Yes. Jay Mendels – The neighbors also expressed an issue with the traffic itself at that portion of the road. How will the traffic flow be addressed? Joel Kohn – John will show the details of the driveway and parking on the site plan and that will be reviewed by the Town's engineer during the Planning Board process as well. Steve Vegliante – This Board can certainly send noted to the Planning Board with any concerns you may have. Jay Mendels – I think that would be all of the neighbors' concerns because it sounds like up until now you haven't been the nicest of neighbors and we need to make sure the whole community can benefit. Joel Kohn – We understand.

Cindy Ruff – Is the trailer currently being occupied? Marty Miller – Yes, the caretaker stays there. Dana Heimbach – And he stays there all year? Marty Miller – All 12 months. Steve Vegliante – Is he security or just the caretaker? Marty Miller – He serves as a little bit of both. Joel Kohn – And just for a correction, he is not there year-round. He is typically only there for the season. Marty Miller – I'm sorry, I thought he was always there. Cindy Ruff - So he is not there now? Joel Kohn – No.

Jay Mendels – So, what I think we are hearing from neighbors is the more people there, the more issues there are. It is nice that you have been attempting to fix this, but it sounds like it is not to the satisfaction of the neighbors. Would you consider reducing the request to a total of 3 units? The caretaker's unit and then another 2 in the house. Marty Miller – I understand the theory of compromise, but I also understand that this is a difference of no difference. Whether there be 2 more bedrooms in the overall project, is not a very large difference. As for the parking issue, you are taking 1.5 spaces and that is not enough to make a noticeable difference in the traffic. Jay Mendels – It may be that way on paper, but that is not how the neighbors feel. And again, it just goes with the idea that more people mean more issues and we are on a piece of property that is not permitted to have that many units, so maybe a compromise is in order. Joel Kohn – We certainly understand the issues with the parking and with the traffic and the garbage, and you have heard from the new Board that they are ready to do what needs to be done to be better in the future, then they have been in the past. These things will be addressed in front of the Planning Board and, should this Board approve these variances, there will be another public hearing in the future because the Planning Board will require one as well. Marty Miller – Correct and even though we appreciate this Board wanting to look at the parking and traffic issue, that is a matter for the Planning Board. But we cannot get to that step unless we can get approvals from this Board. Joel Kohn – Right, and the variances that the applicant is seeking, is for the reduction of the overall size, not per unit. So, for a total of 4 units on a property, you don't need 3.329 acres. I mean you do for the use of a multi-family, but it's not going to be over dense or populated in terms of the acreage. Marty Miller – Correct. Jay Mendels – No, but there will be more people involved if it was three families verses two families in the main building. Joel Kohn – Right, but if you have 10 acres you can have 20 multi-family units. So, by that math, they should be able to have 6 units as there is over 3 acres. We are only proposing 4 units, so it is not over populating. Phyllis Perry – I think the biggest concern really is just property management. I am assuming all 3 units were not occupied this summer, so if you take a look at

the amount of garbage from the family that was there and you double or even triple that, it is concerning. The more people the more trash. It is great to hear that it is trying to be managed now, but how does that get guaranteed? Marty Miller – In this zone, with the acreage they have, and the capacity of the well and septic, the property can support the 4 units. Joel Kohn – Maybe what we can offer, or that this Board can recommend, is that when we go back in front of the Planning Board for approval, there is a condition that we come back to the Planning Board after next season to make sure everything ran smoothly or if there are any other issues that need to be addressed.

Cindy Ruff – Is this already a 3-family? Has the construction been completed? John Fuller – The construction has not been completed. Joel Kohn – I believe the interior partitions have been done, but not completed. Cindy Ruff – So, how many families were there this summer? Joel Kohn – I don't know. David, do you know? David Reich – There was one family, but they were using all of the bedrooms. Cindy Ruff – Okay. Marty Miller – So, it was effectively a 1-family house. Phyllis Perry – And it is unfortunate that just 1 family left it in that condition. Joel Kohn – What I am hearing from the Board is that they are willing to compromised for a 2-family in the main structure. Dana Heimbach – It is just difficult because I hear that there is a new Board, that a management company was hired, that there is a caretaker on the premises during the season, and that there was even a big clean-up done at the end of the season, but the pictures I was just shown still shows trash everywhere. Steve Vegliante – Just to address the Board, undesirable changes to the neighborhood is one of the criteria and something you will have to consider on this. Maybe The Board can ask for some kind management plan on this to see how they intend to maintain the property. That way you can have something to hold them to and that might make the Board a little more comfortable with the situation. That is just my suggestion though. Jim Carnell – Also, Joel had suggested earlier that they come back to the Planning Board after the end of next season, this use in this district actually requires site plan approval and a special use permit. And typically, the Planning Board will require the applicant to come back after the first year of operation to re-visit the special use permit. If there are any issues at that time, they will have to be addressed and the Planning Board may ask them to come again in another year, just to make sure everything is okay. So, I think that is why Joel brought it up, because that will happen at the Planning Board level. Jay Mendels – I would like to see that all happen, but just because you are asking for a certain level of variance, does not mean we have to grant all of it. So, I would like to see a compromise as well as all of that. This way we can make sure you are being good neighbors and following through with everything. But that is just my opinion, the rest of the board may not agree. Steve Vegliante – Another thing is the Planning Board will typically put a time frame on when the clean-up needs to be done by, so you can also make that a suggestion to the Planning Board if this Board decides to move forward. Phyllis Perry – And did you say that you would be willing to make this a 2-family instead? Joel Kohn – Yes. If that is what the Board is comfortable with, they will consider that compromise. Phyllis Perry – Okay and that will also help the septic and potential water issues, as well as the amount of garbage. Cindy Ruff – How many bedrooms will you have if you make it a 2-family? Joel Kohn – There would be 3 bedrooms in each, so still the same number of bedrooms and design flow.

No further questions or comments from the Board.

The Board agreed that they would vote on the requested variances separately.

1st requested variance:

(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 effect; All voted no

(5) Whether alleged difficulty is self-created; All voted no

A motion to approve the first requested variance was made by Cindy Ruff and seconded by Dana Heimbach.

All in favor, 0 opposed

2nd requested variance:

(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 no (Cindy Ruff & Phyllis Perry) and 3 voted yes

(3) Whether request is substantial; All voted yes

(4) Whether request will have adverse physical or environmental effect; 4 voted yes and 1 voted no (Jay Mendels)

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

A motion to amend the second requested variance to a total of 3 dwellings, two units in the house plus the caretaker's unit, and the recommendation to the Planning Board that there be subsequent follow ups to assure the neighbors' concerns are being addressed, was made by Jay Mendels and seconded by Darren Miller.

All in favor, 0 opposed

APPLICANT: CHRISTIAN FARIAS

4 Camp Kennybrook Road
Monticello, NY
S/B/L: 17.-1-35

The Board called this application one more time before proceeding to the last item; still, no one in attendance.

A motion to hold this application open until the next meeting, October 8, 2024, was made by Jay Mendels and seconded by Phyllis Perry.

All in favor, 0 opposed.

APPLICANT: GARDEN COTTAGES

65-47 Varnell Road
Monticello, NY
S/B/L: 18-1-41.2
Marty Miller, Attorney
Joel Kohn, Representative
John Fuller, Engineer

David Reich, HOA member

Applicant is requesting an Area Variance from §250-21D(2) & 34D(7) of the Town of Thompson Zoning Code for (1) Bungalow separation (Unit 2 & 3) from required 25' to 20.6' (2) Bungalow separation (Unit 4 & 5) from required 25' to 19.5' (3) Bungalow separation (Unit 12 & 14) from required 25' to 22.4' (4) Bungalow separation (Unit 15 & 16) from required 25' to 16.8' (5) Bungalow separation (Unit 6 & 7) from required 25' to 15.7' (6) Bungalow separation (Unit 19 & 20) from required 25' to 15' (7) Bungalow separation (Unit 20 & 21) from required 25' to 19.1 (8) Bungalow separation (Unit 22 & 23) from required 25' to 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 at 65-47 Varnell Road, Monticello, NY. S/B/L: 18.-1-41.2. In the Zone: SR no central W/S

Jay Mendels read the legal notice aloud.

Proof of mailings were received.

Marty Miller started the discussion off with a personal story about his history with the Town of Thompson and his involvement in the zone changes many years ago. Then added that the point of the story is that he feels the code has not been kept current, in return, making it hard for pre-existing colonies to conform.

Marty Miller – As for this application, the units have been improved and modified in gradual steps over a very long period of time. None of which, for the most part, were done with building permits, but that does not mean they were done poorly, just done without authority. The Town did not do anything about it for years, not to anyone's fault, but then all of a sudden, they are hit with all of these violations. So, I would like the Board to look at it from that point of view and think about the amount of time that has passed when you hear the presentation tonight and the numbers involved. Now, we originally came to this Board with 20 requests and we have since had the engineer re-analyzed the site, which takes time and is why it took us so long to get back to you. The principal questions that were asked is if there is adequate water and sewer, which there is and took a lot of work to analyze. Those are what I will call health safety issues which don't concern this Board and actually don't concern the Planning Board either, with the exception that they have to make sure it is all approved by the Department of Health. As to the buildings themselves, yes, they have been altered over the years, by multiple different owners. As the units passed from owner to owner, changes were made to accommodate that family. So, the

changes have been made over many years, under multiple regimes, and by multiple owners, and my client doesn't really have any control over what was done in the past. They are here and involved now and want to address the current situation, but they can not go back in time to fix what has already happened. So, we are where we are today and like I said, we originally came to this Board with 20 requests and we have brought that down to 18. Some of the remaining requests are larger than originally proposed, but those are all area variances. And when looking at the area variances and going through the criteria, I want you to remember that it is not a use variance and these variances are internal to the property. They are not affecting the public at large and we are not looking to move setback or move closer to the road. These are pre-existing structures that have been built up and we have brought our engineer, John, with us tonight to answer any questions you may have as to whether they are to code and safe. But before John discusses that, please remember that these are changes internal to the property and that most of these additions were decks. Decks so that families can enjoy their time upstate in the Catskills. These additions are to help improve their way of life and they are not adversely affecting anybody. Other people are allowed to build or extend their decks and I have heard the Board grant such variances to the various Lake Community properties. And honestly you do it all the time because it is appropriate. Some properties are what they are and if you want people build and to enjoy, you have to give them that flexibility. So, I am at this time asking the Board to give us some flexibility and will hand it over to Joel and John to discuss the engineering and numbers.

Jel Kohn – I have a chart that I will hand out comparing the different requests. The unit numbers are in blue and you have the original requested variances by percentage and square footage, and the updated requests in the next column. You will see that some of them have increased and some of them have decreased and then there is the two that don't need a variance anymore. Jay Mendels – Just to clarify, is any of it proposed work? Or has everything here already been built? Joel Kohn – No, it has all been built. Jay Mendels – Then why did they change? Joel Kohn – Because the definition in the code for floor area will include what we didn't include in the square footage. Jay Mendels – Okay. John Fuller – We can go over the changes on the spreadsheet together, but first I will touch on water and sewer really quick. Historically all of these colony's upgrade and receive a water system. In this case there is a single, pre-existing well, that gets pumped into a holding tank and treated, and then disbursed to an underground pipe network that goes to all of the dwellings on the property. That is under the purview of the Department of Health and they have a permit that has to be renewed every year. Based on numbers and the historic understanding that I have, there are 24 total units that are primarily duplexes; so, 12 primary structures. Each unit was a minimum of 2 bedrooms, making at least 48 bedrooms. I have personally gone through the existing units to get a bedroom count, and there are currently 65 bedrooms in total. So, historically there were 48 bedrooms and today there are 65. When we look at what I shared in the last application about how the updated water fixture help save in flow, this was originally designed for 150 gallons, per day per bedroom, and today they only use 110 gallons. So, they are actually using less than it was designed for. If you take 150 gallons x the 48 bedrooms, that is 7,200 gallons per day. Compared to the 65 bedrooms today x the 110 gallons, which is 7,150 gallons per day. They are using less water today, than what the system is designed for. Similar to the prior application, we went through and did the dye test. There are multiple septic systems and some of the records for those go back as far as 1960. We were able to locate all of the tanks and basically there is a shared tank and septic system for every 2 units. This is all subsurface septic systems, so again, the most conventional way to study them is either to scope them or to do a dye test, which is what we did. There was no dye that came to the surface, or any kind of back-up, or flooding in the grassy fields, so no failures there. So, basically there is no increase in the septic demand, and therefore, no increase in the water demand. I don't know the status of any of the work being done and where that stands as far as building permits go, but I have been in every single unit and there has been great deal of work invested into them. Some are

very high end on the interiors and the owners have invested good money into them. I know there has to be a building permit process to close out each violation, but I can tell you that I do both civil and structural engineering, and these structures are all safe and sound. There are some units that can use a little TLC, but nothing unsound. With that, does the Board have any questions on the sewer and water or structural conditions? Cindy Ruff – You have been in each and everyone of these buildings? John Fuller – Yes. Cindy Ruff – And changed the plumbing fixtures? John Fuller – No. What I was suggesting is that all of the units have been renovated, and anything after 1994 would have required the new water saving fixtures. Cindy Ruff – Okay. John Fuller – Plus that is something that can surely be validated when a building permit is obtained and inspections are done. Dana Heimbach – How do you test a well? John Fuller – There are a number of ways it can be done. There is a pump test, a yield test, and there's obviously water qualities tests that are done. What I can tell you, especially with the Health Departments involvement, wells are tested extensively and daily water logs done. Steve Vegliante – Just to be clear, this is regulated by the DOH, because this is a community project, making it commercial? John Fuller – Yes. Dana Heimbach – Okay. Jim Carnell – When you design a septic system or on-site sewage disposal, let's say for a 1-family home today, what is the life expectancy of that? John Fuller – This generally comes up when septic systems fail prematurely, and if you read Health Department literature, they are typically expected to last a minimum of 25 years. Certainly, they can last a lot longer and some have. It depends on the soil types and the soil here was under a 15-minute perc, which is good for septic systems. But no system is bound by any certain date. Nothing lasts forever, but they certainly have adequate space if a new system needs to be installed. Marty Miller – Being these systems are only used a few months a year, will that help extend the life expectancy? John Fuller – Yes. Seasonal use will increase the longevity and the 25-year life expectancy number is based off year-round use.

Phyllis Perry – One of my concerns is the increase in the square footage. Some of them are just so extensive, and I have said this before and don't want to be known as the person who asked if you can change your deck, but when looking at these plans there are a lot of porches/decks, which are included in the total square footage. So, when you are looking at over a 100% increase in square footage, it is hard for me to justify. So, my question would be, again, what changes have been done to these units to make it less extensive? Marty Miller – You can impose the cost of modifying pre-existing decks, but I'm not sure it serves any purpose other than making the units less non-compliant. I understand there is a code and a standard, but I will ask, what is the public harm? Aside from the fact that it is in violation of the code. Was that the wrong thing to do? Yeah, I don't disagree, but these were done over a long period of time and there was a lack of discipline from the Town and on-site management. The question is, is there a harm that is suffered to the community. Phyllis Perry – Personally I believe there is. And I know we are not supposed to take that into consideration, but agreeing to these conditions that don't comply with the code just because no one is getting hurt, sets a precedence for future applicants. Marty Miller – I don't agree. Jay Mendels – I do. Steve Vegliante – And I don't think it is really fair to blame the Town. Marty Miller – And I'm not. I am blaming everybody and I'm not singling anybody out. What I am saying is there has been laxity all the way around. Here's the question, if someone's deck is a couple feet bigger, and it's not imposing on a lake or someone's yard, what is the harm if it is internal? In the same respect, there are height restrictions. There is no real harm if someone wants to build a roof 3 feet higher, but the code says that is not permitted and that is what is to be enforced. So, you may be right that there is no public harm, but there is potential future harm to us as a Board. Joel Kohn – Let me just chime in really quick. I believe the intent of the code to limit or restrict bungalow expansion, was to get rid of all of the dilapidated bungalow colonies. That was done many years ago and the fact is the bungalow colonies that still remain are here to stay. They are trying to make improvements to them, but instead of being incentivized, they are being desensitized. Most are trying to create better, safer buildings, which will create more value for the Town as well as the home. I am not going to defend the

owner's and what they have done is not right, but it was happening in certain instances because they are being limited. They know they can't get a permit for the work, so they just go ahead without one. If there is opportunity provided to let people improve, I think you will see more compliance with these bungalow communities. Also, you see quite a bit of variance requests like these coming in front of the Zoning Board, generally that is a sign that something needs to be addressed or changed in the code. Being on the Comprehensive Committee, I can say that this is one of the items being looked at for lake communities and bungalow colonies. To make sure there is a way to solve the expansion issue without over populating. There are many bungalow colonies in the SR zone, making them non-conforming, and the zoning is the zoning, but there should be a vehicle for someone looking to improve. Phyllis Perry – I get it, I live on a lake. Joel Kohn – So, you understand. Marty Miller – We are basically saying there is something broke in the code and yes, this applicant did violate the code, but please have some understanding of the circumstances here and some recognition that they have substantially improved these properties. They did not create an unsafe situation and the neighbors' concerns are general concerns you see when discussing a bungalow colony; noise traffic, and garbage. They are trying to improve these things now, but the reality of it is, they don't have anything to do with the variances being requested from the Board. Jay Mendels – I disagree because our zoning is put in place to reduce over crowding and disorderly building and I don't feel any of that has been addressed with what has been done to this property. Phyllis Perry – I know it seems like I am hammering the situation here, but are all of these raised decks? Could some of them be lowered to patios, so that they wouldn't be included in the square footage? We are not asking you to take down the building, but maybe these can be more conforming if you just lower the deck. John Fuller – They are all decks and on average are raised 2 to 3 feet. Phyllis Perry – Isn't there a way that they can just have a patio with some steps? It would significantly lower the square footage and then the ask wouldn't be so extreme. I think that would help with more than half of these and it doesn't seem like a large task. Joel Kohn – The decks are not included as part of the request, per the definition. For this use, it is only houses and covered porches. Phyllis Perry – I thought decks were included in the square footage if they were more than a foot off the ground. Joel Kohn – Generally yes, but not when it comes to non-conforming bungalow colonies. Jim Carnell – Just to clarify a little bit, when it comes to non-conforming colonies there is a provision that allows an increase of 15% or 200 sq. ft., whichever is greater, per unit. So, what Joel was getting at is that a deck would not be part of that, but it is included in the calculations for overall lot coverage. Joel Kohn – Right, not with pre-existing. That is why some of the variances got worse; because we cannot use the deck's square footage as existing. Marty Miller – The buildings all stayed the same, it's just the calculations that changed. Cindy Ruff – So all of these requests are for actual additions to the buildings? Joel Kohn – It is either for an addition to the building or a covered porch. No decks. Cindy Ruff – Okay. Jay Mendels – Do we have a differentiation on here for what is covered? John Fuller – They are on the new plan and the numbers relative to the square foot and the percentages, do not include the decks. They are strictly just the footprint of the dwellings plus the covered porches. Joel Kohn – I think what the chairman is asking is what is a deck and what is a porch on the map. Jay Mendels – Yes. John Fuller – So, by definition anything with a roof or cover on it is labeled as a porch. Some of these porches are enclosed and some are just open area. What we did on the map is simple, anything that is covered is labeled as a porch and anything uncovered is labeled as a deck.

Dana Heimbach – What about the two buildings that are sticking out into the other property next to it? Joel Kohn – There is an easement for them and the Planning Board actually asked for that easement to be extended, which was done and will be part of the Planning board approval.

No further questions or comments from the Board. The meeting was opened up to the public for comment.

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

- How many gallons is each of the septic tanks, that every two buildings share?

John Fuller – They were all about 600 gallons, but most of them have been replaced and are now about 1,000 gallons.

- Are the septic systems pumped periodically?

David Reich – I believe they are pumped twice a year.

Leo Goldman @ 82 Varnell Road – Wanted to add that since the new HOA, there has been drastic improvements and no more building without permits. They are working hard to fix things. Also, some of the bedrooms in the bedroom count are used as offices and not bedrooms, but by definition they are considered bedrooms. So, in reality there are less bedrooms than being calculated.

Bryan Vandermark @ 4 Van Etten Road – Stated even though everyone would like to see the bungalow colonies updated and brought current, it has to be done properly and with the proper permits. Agrees with the Board that if they allow and approve these requests, it will just happen again and again. What prevents this from happening again in the future and at what point is there a monetary consequence. Also, as for the new HAO Board members stating there has not been construction since they took over, that is not true. There have been excavators in and out of the property and wood delivered.

Cindy Ruff – This applied to everyone. If you give an inch, they will take a mile. It doesn't matter who it is or if it is a bungalow colony or not. It is just human nature.

David Reich, HOA member – Stated the new Board was not in effect until 2023 and it takes time to transition. Steps were taken right away to get things cleaned-up and get a management company in place, but they did not have good luck with the first company hired. Reassured that none of what has been happening over the last 20 years will continue to happen. There has been surveillance installed and permission granted to remove anyone from the property who continues to violate. All residents were notified of this via letter, which can be supplied if needed.

No further questions or comments from the public.

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

A motion to go into an executive session, pending possible litigation, at 10:26 p.m. was made by Jay Mendels and seconded by Dana Heimbach.
All in favor, 0 opposed

Steve Vegliante advised that there may be action taken after the executive session, so anyone who is interested in the outcome has the option to wait.

A motion to close the executive meeting at 10:51 p.m. was made by Darren Miller and seconded by Dana Heimbach.
All in favor, 0 opposed

Per the Boards request, they went over the square footage of all the covered porches, unit by unit:
Units 1 & 2 – Two porches totaling 180 sq. ft. Both being covered & enclosed

Units 3 & 4 – Two porches totaling 100 sq. ft. Both being covered & enclosed
Units 7 & 8 – Two porches totaling 365 sq. ft. One being covered & enclosed and the other just covered
Units 11 & 12 – Two porches totaling 180 sq. ft. Both being enclosed
Units 14 & 15 – Two porches totaling 180 sq. ft. Both being enclosed
Units 16 & 17 – Two porches totaling 180 sq. ft. Both being enclosed
Units 18 & 19 – Two porches totaling 80 sq. ft. Both being enclosed
Unit 20 – One porch totaling 190 sq. ft and is uncovered
Units 23 & 24 – Two porches totaling 250 sq. ft. Both being enclosed

The Board agreed to vote on the requested variances in sections.

Requested variances #1-8 & 18:

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

A motion to approve variances 1-8 & 18 as requested was made by Jay Mendels and seconded by Dana Heimbach.

All in favor, 0 opposed

Requested variance #9 (Units 1 & 2):

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

No motion was made.

Requested variance #10 (Units 3 & 4):

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

No motion was made.

Requested variances #11 (Units 7 & 8):

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

No motion was made.

Requested variances #12 (Units 11 & 12):

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

No motion was made.

Requested variances #13 (Units 14 & 15):

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

No motion was made.

Requested variances #14 (Units 16 & 17):

- (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 effect; All voted no
- (5) Whether alleged difficulty is self-created; All voted yes

No motion was made.

Requested variances #15 (Units 18 & 19):

- (1) Whether benefit can be achieved by other means feasible to applicant; All voted yes
- (2) Undesirable change in neighborhood character or to nearby properties; All voted no

(3) Whether request is substantial; All voted no

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

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

No motion was made.

Requested variances #16 (Unit 20):

(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 effect; All voted no

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

No motion was made.

Requested variances #17 (Units 23 & 24):

(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 effect; All voted no

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

No motion was made.

A motion to close the meeting at 11:16p.m. was made by Phyllis Perry and second by Dana Heimbach. All in favor, 0 opposed.

Respectfully submitted,

Laura Eppers
Secretary
Town of Thompson Zoning Board of Appeals