

TOWN OF THOMPSON

ZONING BOARD OF APPEALS

TUESDAY, FEBRUARY 19, 2013

MEETING – 7:00 P.M.

~AGENDA~

KRA CONTRACTING – Melody Lake Drive – front yard setbacks

CHAIM LANDAU – Fraser Road – building height, side yard & combined side yard setbacks

J.W.W. PROPERTIES, INC. – Cold Spring Road – 1500' separation for motor vehicle stations

FERGUSON – Canal Road – front yard, rear yard & lot coverage

LOGGERFO FAMILY INVESTMENT – Canal Road – side & combined side yard setbacks, rear yard setback & lot coverage

30 POND LANE, LLC – Pond Lane – side & combined side yard setbacks

APPROVED DRAFT

**TOWN OF THOMPSON
ZONING BOARD OF APPEALS
TUESDAY, FEBRUARY 19, 2013**

IN ATTENDANCE: Chairman James Carnell Robert Hoose
 Richard Benson Sharon Kazansky
 Pamela Zaitchick
 William Rieber, Alternate
 Paula Kay, Attorney

Chairman Carnell called the meeting to order at 7:00 PM and led in pledge to the flag.

A motion to approve the minutes from the previous meeting was made by Bob Hoose seconded by Richard Benson.

4 in favor
0 opposed
Sharon Kazansky not voting

KRA CONTRACTING – Kenny Arnoul

Chairman Carnell read the legal notice. Proof of mailing was submitted.

The applicant is requesting 2 area variances for the purpose of (1) decreasing the minimum front yard setback from 40' to 30' for property Section 62 Block 4 Lot 3.2 & (2) decreasing the front yard setback from 40' to 34' for property Section 62 Block 4 Lot 3.1.

Property is located in the SR zone in Melody Lake.

Chairman Carnell verified that the property had both public water and sewer confirming that there was no issue to be concerned with.

The board had no questions. There was no public comment.

Criterion for area variances was addressed:

Feasible alternative: all voted no; the houses were constructed already – the slope to the rear of the property did not allow houses to be set back further.

Undesirable change: all voted no

Substantial request: all voted no

Adverse effect: all voted no

Self-created: all voted yes

A negative declaration motion was made by Bob Hoose seconded by Richard Benson.

5 in favor

0 opposed

A motion to approve both variances as requested was made by Sharon Kazansky seconded by Bob Hoose.

5 in favor

0 opposed

CHAIN LANDAU – Jay Zeiger & Bill Sattler

This project was held over from the previous meeting.

At the end of the last meeting the board requested that the town engineer do a site visit of the property. After the review was completed the town engineer submitted a letter regarding the

issues with the property and partially constructed building. The applicant's engineer responded to the letter with a list of proposed changes. These changes were reviewed by the town engineer and a new letter was generated. At this meeting the applicant's engineer then provided more comments. Sattler also produced a letter from Rich Benjamin, Highway Superintendent, regarding drainage.

Sattler submitted an architectural drawing of the house with a revised roof design.

Chairman Carnell asked how the elevations changed with the new design. The original design showed the ridgeline at 34.2'; closer to the 33' when done. Carnell said that this is the same as before.

The new roof design will create the illusion that it is smaller. There will be a hip roof on the front of the building instead of a flush gable.

Bob Hoose said that Dick McGoey said the top story should come off; it doesn't look right in the neighborhood.

Sattler said that Dick suggested changing the roofline not remove the top floor.

Zeiger: the biggest issue seems to be the concern of water run-off, drainage and impact on neighboring properties. Adler's office proposed changes and we are trying to address the comments.

Chairman Carnell: we have the original site map, a letter from Sattler on January 29th and another letter from McGoey on dated February 13th. We didn't receive the additional letter from Sattler dated February 14th.

Paula Kay: what Dick said is to reduce the height to 28', but the height is not being reduced.

Logan Ottino: the applicant's engineer and the building department have a difference in the interpretation.

Paula asked what the code says;

Logan: the measurement of height is to the highest point on the building

Paula: then that is what the board has to look at

Carnell: the letter dated February 14th represents 4 variances are requested; height, side yard, both side yards and lot coverage.

Sattler: I read through the zoning – the building will not detract from the neighborhood, it is not ugly, it is a quality building, which should raise property values; I don't understand the concerns.

Hoose: you can change the look but the building is still three floors with all the side dirt piled up and it looks awful

Sattler: we corrected the pipe that was a concern of the neighbors; it is no fair to criticize a work in progress

Zeiger: nothing has been done underhanded

Hoose: the footprint was not followed in the beginning

Zeiger: the height is one issue; the main concern is how it is affecting the neighboring properties

Carnell: the board did not get a chance to review the proposed plans and changes

Hoose: it still looks awful

Zaitchick: by doing things wrong from the beginning you have created additional problems that we now have to deal with; I am concerned with a building that size not needing a sprinkler – it is a matter of safety for the applicant and the neighbors

Ottino: the building still needs a sprinkler

Carnell: this has all been a contractor's error; it the building was constructed according to plan we would not be here

Sattler: nothing would change no matter how many stories it is; it will have the same run-off

Zeiger: we have plans to fix the slope problem

Chairman Carnell: the plan is not to take any action tonight; not until Dick has a chance to review the latest submittal.

Zeiger: then go back and forth again; we still need the variance. We have been working with you. The cost of the new roof design is not insignificant.

Carnell: if this board goes through the criterion tonight I believe that it would not be in favor of the client.

- 1) benefit can be achieved by other feasible means: yes
- 2) undesirable change in neighborhood character: yes
- 3) request is substantial: yes
- 4) request will have adverse physical or environmental effects: yes
- 5) self-created: yes

The board would have no option but to deny the variance.

Zeiger: if the site is modified? We don't want to tear the house down

Paula: the board wants changes

Zeiger: what are they?

Sattler: we are not taking the top floor off; we could make it a flat roof, then we wouldn't need the height variance

Hoose: why not take the top floor off?

Sattler: there are 4 bedrooms up there; each floor has 9' ceilings. We can change them to 8'. We can make the grade flatter and put up a retaining wall. I should work this out with Dick McGoey and then come back to the board.

Chairman Carnell: I know this is irrelevant to this hearing. Are the property owner and contractor still in mutual agreement? The contractor is responsible for creating this mess.

The board had no further comments.

Mario Pannullo: with respect to the house it is too big; we have no privacy

Sattler: the only thing around there is modified bungalows

Pannullo: we told the town there were problems when they first started building; nobody did anything. They are only 50' away; we are never going to see the sun. It doesn't matter how beautiful the building is. The drainage pipes are coming from inside not outside.

There was no further public comment.

A motion to extend the hearing until the March 12th so that the town engineer has time to review the latest submittal was by Sharon Kazansky seconded by Richard Benson

5 in favor

0 opposed

JWW PROPERTIES – John Wallach

Chairman Carnell read the legal notice. Proof of mailing was submitted.

The applicant is requesting an area variance for the purpose of allowing a motor vehicle station within 1500 feet of another motor vehicle station. Section 250.37 requires that there be a 1500-foot separation between motor vehicle service stations. Property is located in the HC2 zone at 82 Cold Spring Road.

The project was discussed at the work session. The applicant met with Dick McGoey as an initial meeting.

Mr. Wallach explained that the building was the former garage for Suburban Propane. I purchased the building and made it into a fish market. Now I want to convert that to a motor vehicle repair station.

Chairman Carnell stated that although the development is lumped into "commercial" all the various plans have different development criteria. Commercial garages have certain areas for cars, screening whether it be opaque chain link fencing or vegetative. The board members have a lot of concerns. The planning board would normally review those concerns and you would be referred to this board with only one issue to address.

Wallach: you are doing everything you can to discourage business; the neighborhood is a slum.

Bill Rieber: the project requires a site plan

Paula: Dick was trying to do you a favor but legally you need a denial from the Planning Board to get here. The building department issued a letter of disapproval.

Paula: at this point the board does not have enough information to make a determination regarding the 1500-foot separation variance.

Carnell: my concern is that the site just becomes a storage lot for junk cars

Zaitchick: I agree with the condition of the area around the shop; we are trying to make it better. If it's junk now we don't want to make it more junk.

Wallach: I put over \$50,000 in the property. Did the paving and fencing and landscaping. You are making it so difficult to succeed. Now I need to go spend more money.

There was no public comment.

Chairman Carnell: we can keep the hearing open in an effort to help while you proceed to the Planning Board. A motion to keep the public hearing open until March 12th was made by Bob Hoose seconded by Pamela Zaitchick.

5 in favor

0 opposed

Rieber asked if the property was being operated. Logan indicated that it might be. Mr. Wallach said there were only two cars there now since he lost the tenant.

FERGUSON – project removed since the mailings were not done.

LOGERFO – Tim Gottlieb

Chairman Carnell read the legal notice. Proof of mailing was submitted.

The applicant is requesting area variances for the purpose of (1) reducing the required combined side yard setbacks from 50' to 47' (2) reduce the rear yard setback from 50' to 47' & (3) increase the allowed lot coverage from 10% to 11% in order to construct a new dwelling. The property is located in the RR2 zone on Canal Road.

It was noted that the rear yard setback should have read 42' and the published legal notice was incorrect.

Paula stated that pursuant to 250.47 Procedure A.(2) In cases where due notice shall have been published, where there have been substantial compliance with the remaining provisions of this section, failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Zoning Board of Appeals in connection with granting any appeal or variance.

Tim stated that comments from the HOA were received with respect to the building permit application; those have been responded to but no formal letter has been received yet. Tim submitted a copy of the waiver from the DOH.

The board had no questions or comments.

There was no public comment.

Criterion for area variances was discussed.

Feasible alternative: all voted no; based on the size of the existing lots in Wolf Lake

Undesirable change: all voted no

Substantial request: all voted no

Adverse effect: all voted no

Self-created: all voted yes

A negative declaration motion was made by Bob Hoose seconded by Sharon Kazansky.

5 in favor

0 opposed

A motion to grant all three variances as requested conditioned on a letter of approval from Wolf Lake Homeowners Association was made by Richard Benson seconded by Sharon Kazansky.

5 in favor

0 opposed

30 POND LANE LLC. – Steve Vegliante

Chairman Carnell read the legal notice. Proof of mailing was submitted.

Applicant is requesting area variance for the purpose of (1) reducing the required side yard setback from 11.25' to 8.8' & (2) reducing the combined side yard setbacks from 30' to 25.6'. Property is located in the SR zone on Pond Lane.

Mr. Vegliante thanked Logan Ottino for helping out in getting this taken care of.

This is old construction; nothing new.

The side yard setbacks are as constructed originally. The neighboring lot is also owned by 30 Pond Lane so that is the only one affected.

Paula stated that was a problem. If the need for a variance can be eliminated by combination of parcels owned by the same person then the variance cannot be granted by the Zoning Board.

Mr. Vegliante confirmed that the lot was in the same name.

The solution would be to transfer the adjoining lot to another owner. Steve stated that would be done.

There was no public comment.

Criterion for area variances was discussed.

Feasible alternative: all voted no; it has been there for 40 years

Undesirable change: all voted no

Substantial request: all voted no

Adverse effect: all voted no

Self-created: all voted no

A negative declaration motion was made by Bob Hoose seconded by Richard Benson.

5 in favor

0 opposed

A motion to grant the variances as requested contingent on the deed transaction was made by Bob Hoose seconded by Sharon Kazansky.

5 in favor

0 opposed

SHEILA SNOW –

A motion to close the hearing was made by Bob Hoose seconded by Richard Benson.

5 in favor

0 opposed

A negative declaration motion was made by Bob Hoose seconded by Sharon Kazansky.

5 in favor

0 opposed

A motion to deny the application was made by Bob Hoose seconded by Richard Benson.

5 in favor

0 opposed

Paula said at the Association of Towns Conference she received copies of the newly developed DEC forms; both the long form and short form EAF. Copies will be provided to each of the board members. These are not effective until April 2013.

A motion to adjourn at 8:22 PM was made by Bob Hoose.

Respectfully submitted,



Nora Hughson

Zoning Board of Appeals Secretary

