

**APPROVED**

**TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
January 14, 2014**

**IN ATTENDANCE:**            Chairperson James Carnell            Richard Benson  
                                 Richard McClernon            Absent: Robert Hoose  
                                 Jose DeJesus, Alternate            Brian Soller, Alternate  
                                 Logan Ottino, Building Inspector            Paula Elaine Kay, Attorney  
                                 Scott Mace, Town Board Liaison

Chairman James Carnell called the meeting to order at 7:00 p.m.

Pledge to the flag.

Chairman Carnell advised that due to a scheduling conflict, Countryside Acres' engineer requested that we take them first. A motion to take the agenda out of order was made by Richard Benson, seconded by Richard McClernon: 5 in favor; 0 opposed

**COUNTRYSIDE ACRES, INC. - OLD LIBERTY ROAD - S/B/L: 8-1-57**

Bill Sattler, P.E. and Lenny Sanders, Contractor

The Notice of Public Hearing Notice was read by Chairman Carnell and Certified Mail receipts were provided to Secretary by Applicant. Mr. Sattler argues in favor of the application that there are other buildings which are closer to road than the buildings in question. Applicant cannot put extensions into parking lot area as it would reduce the amount of parking spots and compound an already existing problem. Putting the additions out front of the buildings is still within the fenced area and not taking up parking spots. These additions are being built for children to play in so that their parent can keep an eye on them while they are playing. There are no windows or doors on these additions so that the children cannot leave without their parent seeing them do so. Chariman Carnell inquired as to the red areas on the maps. Mr. Sattler advises that the red areas are just for highlighting purposes and the applicant is only looking to build a 16 foot by 30 foot screened porch addition.

Paula Kay, Esq. inquired of Mr. Sattler as to whether or not they discussed 239 County Planning review with the former Zoning Board Secretary and was advised they had not discussed the same. Chairman Carnell stated that since the premises is on a County Road, a 239 review will have to be done by the County. Richard McClernon asked the Mr. Sattler if in fact the additions are 27 feet from the existing home to the fence and Mr. Sattler confirmed the same. Mr. McClernon stated that the plans are not clear; it shows 16 feet from house to fence. Mr. Sattler explained that he gave all scenarios on the plans to cover all bases. Chairman Carnell questioned the location of the lot line, which is in the middle of the road, even though the same is on a County road. Logan Ottino confirmed that the lot line is in the middle of the road from a prior site plan and Mr. Sattler confirmed the lot line location from a recent survey. Mr. Sattler advises that it is not exactly in middle of road and he has indicated the lot line on the submitted plans.

Chairman Carnell asked if there was any public comment. There was no public comment.

There are three members present; Jim Carnell added Brian Soller appointed as full member tonight.

Chairman Carnell advised the Board that we go through a set of criteria for each applicant as follows:

(1) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no

(2) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no, since the applicant would lose parking spaces if they placed the additions there.

(3) Is the requested area variance is substantial? All voted no, because other buildings on the premises are less than 100 feet from property line as well.

(4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.

(5) Is the alleged difficulty is self-created? All voted yes.

A negative declaration motion was made by Richard Benson and seconded by Richard McClernon.

4 in favor; 0 opposed.

Chairman Carnell requested that a motion to approve the variance contingent upon receipt of the County's 239 review. Paula Kay, Esq. advised that the Board will need super majority even if County approves the variance and so there is no need to say "favorable" review. If we say favorable and it comes back unfavorable, the Applicant would have to re-apply. Chairman Carnell advised that the County will more likely say that they are not going to make a determination in this. A motion was made by Richard Benson seconded by Richard McClernon.

4 in favor; 0 opposed.

**BABCOCK - CANAL ROAD - S/B/L 66-15-16**

Kenneth Babcock, Applicant

Applicant was to provide Board with proof of mailing. Chairman Carnell confirmed that Certified Mail receipts were provided to Secretary by Applicant tonight.

Chairman Carnell asked if there was any public comment. There was no public comment.

Chairman Carnell advised the Applicant that the variance is approved; it was voted favorably at last meeting contingent upon the Board's receipt of proof of mailing. Chairman Carnell advised the Applicant he can now go before the Planning Board.

**ICHUD FOUNDATION - ROUTE 42 - S/B/L 28-1-22**

Maria Zeno, Esq.

Chairman Carnell states that a question was raised as to how density was being calculated. Maria Zeno, Esq., advised that an agreement was made with the neighbors to keep harmony. It was noted that residents of Jacob Drive came to the initial public hearing to express concerns about the buildings in the front of property but there was no public opposition. It was also noted that although there was a restriction in the part of the premises, it does not affect density.

Ms. Zeno provided some background with respect to this variance. In June 2013, the applicant appeared in front the State to request a waiver for the installation of a sprinkler system in the dining hall. Unfortunately, Ms. Zeno's office could not attend and they sent another representative to attend in their place. The State had questions which their representative could not answer and the State rejected the applicant's request for a waiver. The applicant was under the impression that they were supposed to appear before the State Board today but found out the hearing was pushed forward to February 11, 2014. Ms. Zeno advised that the State did deny the applicant's initial application because they wanted more paperwork and that they anticipate getting an answer at the February 11, 2014 hearing. It took the State two months to give a determination the last time; we are hoping for the same time frame this time.

Chairman Carnell asked Logan Ottino if the State contacted her for the Building Department's input and Logan advised that they had not requested her presence at today's meeting and that perhaps for the February 11, 2014 hearing they will be asked to attend. Ms. Zeno advised that the applicant received confirmation from State for the February 11, 2014 hearing.

Chairman Carnell advised that density is the only issue for the Board and suggested we move forward with contingencies. The Building Department has some issues as discussed, including the payment of fees.

Ms. Zeno asked if we can we make the variance conditionally approved on obtaining a Certificate of Occupancy. The reason is that the dining room has to be operable for the applicant to use for summer. If we don't get permits to build, we won't be ready for summer. If the State denies our request for a waiver of a sprinkler system, the applicant will install a sprinkler system.

Paula Kay, Esq., advised that this matter is going back to the Planning Board and that the density issue is the reason it has come before the Zoning Board. There is going to be heavy review by Planning Board which may take a few months. Ms. Zeno advises that they are on for next week's Planning Board meeting and stated that she understood from the Town Engineer that the only issue left was density. Paula Kay, Esq., disagreed and also advised that the Planning Board may ask for a Public Hearing.

Paula Kay, Esq., stated that if the Board makes the variance conditional on obtaining Certificates of Occupancy for the dining hall and the residence units, they may all end up being approved at the same time. She agrees with the applicant that we could condition the approval on obtaining Certificates of Occupancy and not on Building Permits because they do in fact have a lot of work

to do and this would allow them to go forward with the Planning Board and deal with all issues. It may be that a Public Hearing will not be held until February and it may not be until March or April before the Planning Board is satisfied. Hopefully by then we will have a determination from the State.

Brian Soller questioned if there was an issue with the applicant's use of the building without a Certificate of Occupancy already? If everything is conditional on a Certificate of Occupancy, what is to stop the applicant from using the building without a Certificate of Occupancy? Paula Kay, Esq., advised that there was previously an issue of the building being used without a Certificate of Occupancy. Chairman Carnell stated that this is why he wanted to make the variance conditional on Building Permits being issued and not a Certificate of Occupancy.

Ms. Zeno advised the Board that the applicant is more than willing to do what needs to be done to get a Certificate of Occupancy before this summer. They are expecting more families and have more classrooms so they really need to get this done. The applicant has Building Permits for two units and they are looking for two more permits. They have started working on the first two units but would like to work on all four at once to make it easier for construction. Chairman Carnell asked how far along the applicant has gone with construction and the applicant advised that they have started digging and are waiting for foundation permits.

The applicant advises that they will wait to get an answer from the State as it is easier to finish construction without sprinklers. It is a big undertaking to install them and space is an issue as well as money; it makes a lot of problems to maintain, year after year. The building in question is masonry constructed and as fire-proof as possible. The applicant further reminded the Board that the State did not deny their request the last time, the State just asked for more information.

Chairman Carnell suggested that instead making the condition of not issuing Building Permits until a Certificate of Occupancy is given, that we make the condition that no Building Permits may be issued until final Planning Board approval, the site plans have been stamped by the Planning Board Chairman and all fees have been paid including escrows, etc.

Chairman Carnell asked if there was any public comment. There was no public comment.

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

A motion to approve the applicant's request for a variance to increase density from 2.0 to 2.44 with the condition that no Building Permits may be issued until final Planning Board approval, the site plans have been stamped by the Planning Board Chairman and all fees have been paid including

escrows, etc. was made by Richard Benson, seconded by Richard McClernon.

4 in favor; 0 opposed.

**PUZIO - DILLON FARM ROAD - S/B/L: 18-1-63.14**

Al Chase from office of John Galligan, L.S.

The Notice of Public Hearing Notice was read by Chairman Carnell and Paula Kay, Esq., advised that Certified Mail receipts were provided to Secretary by Applicant. Chairman Carnell noted that the Notice incorrectly states that the premises is located on Old Liberty Road;

Chairman Carnell advised the applicant that we approved the two-family setback issue in June of 2012 and the applicant must ask for an extension of the variance from the Building Department, as the approval was only good for six months.

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

Chairman Carnell advised that no motion for negative declaration was made, as this application is presently before the Planning Board.

A motion to approve the variance was made by Jose DeJesus and seconded by Richard McClernon.

4 in favor; 0 opposed.

After review of the file, Logan Ottino noted that there was no setback approved in June 2013 because it was not needed. After a review of file, Chairman Carnell noted that they meet all side yard setbacks and he is not sure why the plans look different. The applicant does not need to ask for an extension and just continue with the Planning Board.

A motion to adjourn the meeting at 7:30 p.m. was made by Richard McClernon.

Respectfully submitted,

Kathleen Brawley  
Zoning Board of Appeals Secretary