

**TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
April 8, 2014**

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

ABSENT: Jose DeJesus, Alternate

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

Chairman Carnell asked for a motion to accept March 11, 2014 meeting minutes. A motion to accept the minutes was made by Richard McClermon and seconded by Richard Benson  
5 in favor, 0 opposed

**PRESTIGE TOWING & RECOVERY, INC. - 86 SACKS ROAD - S/B/L: 1-1-74**  
Jacy Ricciani, Esq.

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Ms. Ricciani advised the Board that the Applicant is looking for an area variance so he can construct a storage garage on the premises without a principal use. This is located at the end of Sacks Road, a dead end road in Harris. However, you can see Route 17 from the premises. There is vacant land all around the subject premises, with a seasonal bungalow colony across the street. Ms. Ricciani provided photographs to the Board to view. The property is heavily screened by trees and is heavily forested. Ms. Ricciani advised that there are no residences past the building in question and there are no nearby neighbors. The proposed garage will not be driven past and there are no residences adjoining the premises.

Attorney Paula Kay advised Ms. Ricciani that one issue the Board wants to address is the nature of the use of the premises. It is a private garage for storage and no one wants to see a business run out of there. Ms. Ricciani agreed with the Board and advised that the Applicant has simply run out of space and needs a place to store vehicles he is working on, etc. They will be stored inside the garage, there will be nothing visible to outside other than a Dumpster which will be enclosed. There will be no signs, no business conducted outside. It will be used solely for the storage of trucks and vehicles. In fact, item 11 on the plan notes that it will not be used for business purposes.

Richard McClernon pointed out that it is a business use. Ms. Ricciani advised that if the Applicant had the land available, he would be storing vehicles at his main shop. The Applicant found this property and thought it was optimal because it was at the end of a dead-end street. Ms. Ricciani stressed to the Board that the building will be used solely for storage.

Attorney Paula Kay wanted to ensure that a note was put on the plan that states that nothing will be stored outside and Ms. Ricciani confirmed that it is on the plan. Ms. Ricciani confirmed that anyone driving by will just see a structure. There will be a garage door for access and some landscaping, which the Planning Board will address.

Richard McClernon asked if the building is going to be a plain block building. Ms. Ricciani said it most likely will be, much like a pole barn.

Chairman Carnell noted that the bulk table allows 15% lot coverage in the zone and the proposed building looks like 30%. Ms. Ricciani thought that was a planning issue and Attorney Paula Kay confirmed it usually comes before the ZBA. Chairman Carnell advised Ms. Ricciani that the application may have to be amended.

Chairman Carnell noted that all setbacks seem to be in order and the height of building can be handled by the Planning Board as an oversized building. Ms. Ricciani asked if private garages must be on a three acre lot? Ms. Ricciani thought if there was nothing listed under the lot area, you would just go by the table to the former use (which is three acres for places of worship). Both Chairman Carnell and Attorney Paula Kay both advised Ms. Ricciani that she is reading the table correctly. Ms. Ricciani advised that the applicant will amend his application to seek a lot coverage variance. Attorney Paula Kay suggested that perhaps the applicant can reduce the size of the building. Ms. Ricciani advised that the applicant is not against that. He really wishes he could buy more acreage, but he just cannot. So we will amend the application to ask for the lot coverage variance as well.

The Board had no further comment.

There was no public comment.

Discussion was had whether or not the Board should act tonight on the variances asked for and work with the other variances the next time. Logan Ottino felt we should act because if it is disapproved, the applicant would not go forward with the additional variances.

Attorney Paula Kay suggested an informal poll of the Board so the applicant will know where they are going.

Ms. Ricciani offered to give any further information necessary to the Board. Attorney Paula Kay advised Ms. Ricciani that Notice has to be re-mailed anyway because the application is changing. Even if the Board acts on this tonight she will have to mail regardless.

Chairman Carnell asked for a motion to keep this Application open until the May 13, 2014 meeting and a motion was made by Richard McClernon and seconded by Richard Benson. 5 in favor, 0 opposed.

Ms. Ricciani advised the Board that if the Board is not inclined to grant the variance, her client will have to look elsewhere for a new parcel. She will speak to the Applicant's engineer and the Applicant and see what they can get it reduced to. They will try to get it as close to 15% lot coverage as they can.

Pamela Zaitchick asked how many doors will be on the garage and Ms. Ricciani advised that it depends on what happens with the Board. Ms. Ricciani asked if they need to submit a new application and Attorney Paula Kay advised her to just add to the Application previously submitted. Since the EAF was previously submitted, it does not need to be re-done. Ms. Ricciani advised that there is nothing in the EAF with respect to the lot area.

Attorney Paula Kay advised Ms. Ricciani to add the two new variances and re-notice the adjoining. We will republish the revised Notice.

**MENDEL GUTTMAN - FRASER ROAD/ROUTE 42, UNIT 8 - S/B/L: 10-6-2.2**

Mr. Allan Frishman

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Frishman went over the application in brief. Mr. Frishman advised that with respect to the setbacks from Fraser Road, you can see on the survey map that the property line does not really go to the end of the road. There is a ten foot natural buffer. With respect to side yard setbacks, there will be growth there too. Mr. Frishman provided the Board with photographs showing the natural buffers which exist.

Chairman Carnell advised that the Board is looking to get something a little more current than the 1987 plan submitted. Mr. Frishman advised that the Building Department has already asked him for one; however, site plans are very expensive and his client does not want to go forward with the expense unless he gets the requested variances. There is a new survey. Attorney Paula Kay noted that you cannot truly know where everything is without a new survey. Mr. Frishman advised that nothing has moved.

Richard McClernon asked what the piers and hole in the house were for? Mr. Frishman thought the hole was from removing the water heater housing and not sure of piers. Ted Lewis, the Contractor advised the Board that he discussed with the Building Department that

the new addition would be put on floating piers and that Code allows it to be constructed that way if the main structure is already on piers. He put them into the ground in November anticipating that he could start work. Mr. Lewis then claimed that the Building Department was busy and delayed this project, however, the Applicant did miss deadlines as well.

Mr. Lewis advised that this colony has not been touched since the 1980's. Mr. Frishman advised that the survey was stamped in 1987 and nothing has changed. The buildings are where they are on the survey. The site plan does need to be re-done and upgraded by the Applicant but he does not want to follow through if the Board won't consider the variance.

Chairman Carnell advised that technically, even from 1987, the property line is the center of the road. When this Board issues a variance, we need to have accurate dimensions. If they can determine where the iron pins are located, that would help, as there is no way for the Board to know. Mr. Frishman advised that he used the center line of the road to make his calculations. Chairman Carnell asked where the property line is? It is not typical for a metes and bounds description to not begin at the center of the Town Road. Attorney Paula Kay advised that we have always asked prior applicants who provide older plans, to provide updated plans before the Board can move forward.

Mr. Frishman asked if the Applicant can get a conditional variance? If it turns out that Applicant is out of compliance, he will come back before the Board. They really want to move ahead.

Attorney Paula Kay advised that this Board is looking for a survey. Not a site plan.

Chairman Carnell advised that there is a metes and bounds description, but the Board needs the locations of the buildings. Mr. Frishman advised that he didn't just put them anywhere on the plan, he did it based on actual calculations.

Chairman Carnell advised that if the Board is going to approve a variance, we have to see a survey. Mr. Frishman asked if we just do a survey for the corner bungalow? Chairman Carnell advised that for this Board, that would be fine, however, the Planning Board will not allow it. Mr. Frishman then confirmed that the Applicant will get a new site plan prepared if the variances are approved.

Mr. Frishman asked if getting a survey done could be a condition to approval. Attorney Paula Kay advised that the Board will want to see the survey first before they make any decision. They want to see what is around the subject bungalow for separation issues, etc.

Richard McClernon asked if there a problem with the foundation and Logan Ottino advised that because it is a two family dwelling, there is no issue, they can keep it on piers.

Attorney Paula Kay advised that we will also need to ask for a 239 review from the County.

Mr. Frishman provided a letter from the colony that they approve the application.

Logan Ottino pointed out that there are open permits and garbage violations.

Mr. Guttman, the owner of the unit, asked to address the Board. Mr. Guttman advised that he would like to cooperate with the Board. He knows that lots of people build illegally. He is not one of them. He owns 4-5 places for his family and his children in this area. He hired professionals to ensure it was done professionally. To make a long story short, this is mostly older people in the colony. This Unit was bought for his son in law. It is very small. His son in law helps the neighbors and they will be disappointed if he is not there this year to help residents with reading, etc. He does not think this bungalow at the back of the property will affect anyone other than the members of the colony. He is begging for conditional variances, as they are here before the Board now.

Chairman Carnell advised that the Board is not trying to minimize your request, but we have three different surveys with three different numbers. We need consistency.

Attorney Paula Kay advised that the Town of Thompson's first priority is all about the safety of the residents and children of the Town. We are going to do whatever we can to ensure everything is done correctly from Step One, to the building permit and ultimately, the issuance of a Certificate of Occupancy. An accurate survey will make sure the project is done correctly. If you provide the Board with what they need, you will get what you want.

There was a comment from Michael Bock a neighbor of the subject premises. He confirmed that the location of the colony is across the street from his home and not the premises he originally thought when he received his notice. He thanked the Board and stated it was all good.

Mr. Frishman advised that they will come back before the Board with a survey.

Chairman Carnell asked for a motion to keep this Application open until the May 13, 2014 meeting and a motion was made by Richard McClernon and seconded by Robert Hoose. 5 in favor, 0 opposed.

Mr. Frishman asked about the County's 239 review and Attorney Paula Kay advised that the Board will give the County what we have. Logan Ottino then advised the Board that there is only one open permit

**ALEX WEINBERGER - 149 LAKE SHORE DRIVE - S/B/L: 42 -6 -4**

Scot Freestone, Architect

Chairman Carnell recused himself from this application and appointed Richard Benson as Acting Chairman.

Acting Chairman Benson read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Freestone advised that the Applicant is looking for variances to correct violations on the applicant's property for a wood frame deck. Last year, on March 12, 2013, we got approval for a sauna and this deck was included in the area coverage at that time. A portion of the existing deck appears to have been a part of the original structure (there is a foundation under a portion of it).

Attorney Paula Kay asked how he ended up before the Board and Mr. Freestone advised that there was no building permit issued for this deck.

Acting Chairman Benson asked what the height of the deck is and Mr. Freestone advised that it is close to the ground, less than two feet. Acting Chairman Benson advised that it appears that surveys were updated and that is why they are looking for variances.

Acting Chairman Benson asked Attorney Paula Kay if the Board can we act on all of the requested variances and Attorney Paula Kay advised that they can.

Rita Heller, a neighbor of the applicant, had some questions and came up to look at the site plan. She wanted to know why he was making an application for a variance. Attorney Paula Kay advised Ms. Heller that essentially, he built a deck and now is looking to get into compliance. Ms. Heller confirmed that nothing new is being built. Robert Hoose advised Mr. Freestone that before the variances are issued, the \$500.00 fine for building without a permit must be paid. Ms. Heller advised the Board that the size of the garage is huge. Nice, but huge.

There was no further public comment.

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? No
- (2) 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? No
- (3) Is the requested area variance substantial? No
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? No
- (5) Is the alleged difficulty self-created? Yes

A negative declaration motion was made by Robert Hoose and seconded by Richard McClernon. 5 in favor; 0 opposed.

A motion to approve all variances requested subject to payment of the \$500.00 fine was made by Robert Hoose and seconded by Richard McClernon. 5 in favor; 0 opposed.

**THE CENTER FOR DISCOVERY, INC. - TREE HOUSE**  
**37 KINNEBROOK ROAD - S/B/L: 7-1-39.2**

Mr. David Fanslau

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary. It was also confirmed that the County issued their 239 review which found this application a matter for local determination.

Mr. Fanslau advised that essentially, this variance is for the construction of a tree house to accommodate children in wheelchairs so they can experience a tree house experience. The house is in the center of the premises. The height is 15 feet above-ground. Access to the house will be by a series of ramps.

The Board had no questions.

There was no public comment.

- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? No
- (2) 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? No
- (3) Is the requested area variance substantial? No
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? No

(5) Is the alleged difficulty self-created? Yes

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

A motion to approve the variance requested was made by Robert Hoose and seconded by Richard McClernon.  
5 in favor; 0 opposed.

Peter Dollard, on behalf of the Center thanked the Board. This project is to give children and adults the opportunity to experience a tree house.

**THE CENTER FOR DISCOVERY, INC. - GAZEBO**

**KINNEBROOK ROAD - S/B/L: 12-1-4**

Mr. David Fanslau

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary. It was also confirmed that the County issued their 239 review which found this application a matter for local determination.

There was no public comment

(1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? No

(2) 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? No

(3) Is the requested area variance substantial? No

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

(5) Is the alleged difficulty self-created? Yes

A negative declaration motion was made by Robert Hoose and seconded by Richard McClernon.  
5 in favor; 0 opposed.

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

**COUNTRYSIDE ACRES - 445 OLD LIBERTY ROAD, UNIT 1 - S/B/L: 8-1-57**

Bill Sattler, P.E.

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary via email, although Mr. Sattler was asked to provide the original receipts which he confirmed he would. It was also confirmed that although the request was sent, the County had not yet issued their 239 review due to confusion in their office.

Proof of mailing was provided to the secretary.

Mr. Sattler advised that this application is similar to Unit 9 which was before the Board in January 2014. He believed the variances we sought on 9 were greater than what we are seeking now. Unit 9 was for a screened porch. This variance is for a bedroom with a bathroom and a deck with no roof.

Mr. Sattler confirmed that he went over the lot coverage calculations with Logan Ottino and the project came under the radar with room to spare.

Robert Hoose provided copies of letters submitted by neighbors to Mr. Sattler. Chairman Carnell confirmed that all Board members have read them. Chairman Carnell further confirmed that this application will not go before the Planning Board.

Attorney Paula Kay advised the Board that Forever Wild's current letter just references their prior letter, which was also enclosed, which stated that they have no problem with one change but do not want it to set a precedent.

Mr. Sattler advised that there were septic problems a few years ago, but there are no septic problems now. Their SPDES permit is valid. Mr. Hoose asked if the applicant was supposed to construct a whole new septic system? Mr. Sattler advised that the applicant did make substantial repairs to the old system.

Charles Woznick, a representative from Mahogany Ridge attended tonight's meeting. Mr. Hoose asked Mr. Woznick if they get sewage overflows. Mr. Woznick said they do not. They used to have problems with the fish in the pond because of the septic issues. Mr. Woznick advised that their concerns are that the Applicants are just working on making the place bigger and the infrastructure is not being upgraded.

Mr. Hoose thought the Applicants were supposed to fix the septic system. Logan Ottino confirmed that they have not had phone calls concerning the same in some time. Mr. Sattler

stated that the septic system was corrected three or four years ago with Engineer Glenn Smith's assistance.

Chairman Carnell advised Mr. Sattler that the Board did not get to review the application for very long during the work session. Mr. Sattler advised that what is proposed is in red (the addition and deck).

Logan Ottino asked what the status of the updated site plan is with the Planning Board? Chairman Carnell stated that the plan is unclear. There are a lot of different notations on the current site plan. The Board wants a updated site plan.

Attorney Paula Kay advised that there are some issues that have not been addressed. Mr. Sattler advised that it was for work that was never followed through.

Robert Hoose asked if a note could be on the plan that they must update the septic system. Logan Ottino advised the Board that the size of the system has to be calculated by bedrooms and the Applicants are adding one bedroom. Mr. Sattler advised that there are 28 bedrooms on site. There is a reserve of 11 bedrooms (they have capacity for 39).

Robert Hoose asked if the Applicants continue to add on, will it affect the septic system? Mr. Sattler confirmed that it would, but that this application is for one project and one additional bedroom. Mr. Hoose asked why do applicants keep having to add on to these bungalows? Why can't they be happy with what they have? When is it too much?

Mr. Sattler advised the Board that he would rather see the Applicants make the building larger rather than go up. If the Board says no to the variance, they will build higher, rather than out.

Richard McClernon advised that there is a note on the plan that says proof of adequate sewer will be provided. Mr. Sattler advised that the site has a reserve of 11 bedrooms. Logan Ottino asked if the Applicants are removing a bedroom and then adding it back on and Mr. Sattler advised they are not. This is an added bedroom.

Chairman Carnell asked if the Board received a final stamped site plan and Logan Ottino confirmed that they do have it. They have a three year build-out plan. Mr. Sattler advised that the Applicants of the build-out plan were going to rebuild bungalows, but were rejected by the community, so they did not go forward with that plan.

Mr. Woznick asked the Board if the calculation of the septic size is based on bedrooms or number of people? Attorney Paula Kay confirmed it is based on number of bedrooms.

Attorney Paula Kay advised Mr. Sattler that the Town Board has asked me to remind the Board that we have to look for the safety concerns for the children and residents. It is critical for colonies like this. Mr. Sattler advised that he feels safety has been addressed, there is fencing. They are not overcrowding the buildings. They are building by new construction standards rather than using older construction codes. That should comfort the Board. Robret Hoose feels that the Town should limit the amount of people living in a bungalow and Pamela Zaitchick asked who is going to do the headcount?

Brian Soller advised that we continue to allow applicants to bump out these units. It is an obvious trend. Personally, because we are saturating land that is already over-saturated, there will be no place left to go. I personally would not approve this variance. Mr. Sattler advised that they do have a way to fix overcrowding, but it involves building taller buildings, which we want to avoid. Mr. Soller cautioned that if one unit catches on fire, by the time the Fire Department gets to the scene, it is two units. They are increasingly becoming too close together. Richard McClernon advised that it does limit access to fight a fire because the fence cuts down the distance. Mr. Sattler disagreed. There will be 9 feet to the fence for fire access. Mr. McClernon advised that this is not a lot of room. Plus, you'll have an air conditioner there as well.

Chairman Carnell asked if the 30 foot calculation is to the center line of the road and Mr. Sattler confirmed the same. Chairman Carnell confirmed that the lot line is the County Road. Logan Ottino confirmed that said they used it for the site plan.

Pamela Zaitchick asked if there is an existing site plan and Logan Ottino confirmed there was and that it is a master plan of all the "build-outs" they are planning on building.

Attorney Paula Kay explained to the Board and Mr. Sattler that the County thought they already issued their 239 review for this project, but it was for the application made in January and not this particular application. Therefore, any variances granted will be subject to the County's 239 review.

Brian Soller stated that in reviewing the plans, Unit 16 notes it will be replaced. Mr. Sattler advised that it was not done. It is a mistake.

Logan Ottino advised the Board that this is a conforming colony. The bungalow itself is non-conforming, but the colony is a permitted use in the zone. The setbacks are pre-existing.

Richard Benson noted that the letters received from neighbors were because of septic issues. What happened to cause the problems? Mr. Sattler advised that there were problems in the system due to root and pipe problems. There was also some expansion. Mr. Sattler advised

that the neighbor confirmed there have been no problems for the past two years.

Chairman Carnell then asked Bill to confirm certain aspects of the site plan which were unclear.

Richard McClernon asked about lot coverage and Chairman Carnell advised they are way under. Mr. Sattler advised they were at 5.4% including this addition. Mr. McClernon asked if that calculation includes acreage over a septic system? Maybe it shouldn't be included in calculating the percentages. Chairman Carnell advised that wetlands, steep slopes, buffers, etc. usually come out of the area calculated. Regardless, this Applicant is under the percentage.

Attorney Paula Kay advised that the Board really should wait until we get the County's approval or disapproval.

Chairman Carnell asked Mr. Sattler if the Applicants have to update their SPDES permit because they are adding a bedroom? Mr. Sattler advised that they do not, as the system is rated for 39 bedrooms, and they only have 28 bedrooms. As long as we don't go over gallonage per day, we can continue under our present permit.

Robert Hoose asked how many people occupy the colony in the summer? Mr. Sattler advised that he has no idea. Mr. Hoose advised that the national average is 150 gallons per day, per bedroom. The Applicants have to be over capacity in the summer.

Pamela Zaitchick advised that we have to think beyond that. If you have 10 people in the home; irregardless of bedrooms, whether the State says the number is one thing, even if we know we believe there are more people.

Chairman Carnell asked for a motion to keep open until May meeting so we can get 239 review. Mr. Sattler advised that he is going to be on vacation but will get someone to cover the meeting on his behalf. Chairman Carnell suggested that we wait and see what the County's 239 review says and then we can decide if Mr. Sattler's presence is required at the next meeting.

A motion to keep this application open until the May 13, 2014 meeting was made by Richard McClernon and seconded by Richard Benson.  
5 in favor, 0 opposed.

Chairman Carnell asked for an update on the Cerasoli application. Logan Ottino advised that the Town finally received payment.

With respect to the Besser application, Acting Chairperson Richard Benson asked for a motion to keep meeting open until the May 13, 2014 meeting and a motion was made by Richard McClernon and seconded by Richard Benson.

5 in favor, 0 opposed.

A motion to end the meeting at 8:25 p.m. was made by Richard McClernon and seconded by Richard Benson.

5 in favor; 0 opposed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kathleen Brawley". The signature is written in black ink and is positioned above the printed name.

Kathleen Brawley, Secretary  
Town of Thompson Zoning Board of Appeals