

is asking for versus what is actually going on in the property. The applicant should be asking for a use variance and not an area variance to start off with. All Board members were in agreement with the Chairman. Mr. Ward has also noticed that there are many cars on the lot and realizes it is visible from Route 17. Mr. Ward advised that the applicant is trying to find properties where he can have this type of use but he is having a hard time finding that. The applicant wants to stay in the Town and he needs storage close to his property. Mr. Ward noted that a neighbor did offer to sell nearby property to the applicant. Mr. Ward suggested that the applicant go to the Planning Board to get approvals, but he does not believe the applicant went ahead.

There was no public comment.

Chairman Carnell advised that based on the application, the Board believes the applicant needs to get a use variance. Mr. Ward advised that the area variance is what we tried first, because it is easier. We believe it will be difficult to get a use variance.

Attorney Paula Kay advised that the Board is concerned because there is an increased use of the property since the application has been submitted. Mr. Ward agrees and has expressed his concerns to the applicant. There would be area and use variances needed regardless. Attorney Paula Kay believes it is a supervision issue as well, as someone would need to ensure it was not being used commercially.

Attorney Paula Kay advised Mr. Ward that the applicant can choose not to act on the area variance because it is somewhat irrelevant. Chairman Carnell advised that the Board will not act tonight and we will not make a determination.

Mr. Ward advised that he will advise the applicant to withdraw the application.

Chairman Carnell advised that the public hearing for the area variances will be closed and the applicant should apply for use variances, if he desires.

A motion to close the public hearing was made by Richard McClemon and seconded by Pamela Zaitchick.

5 in favor, 0 opposed

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

Josh Evans from Al Adler, PE

A motion to re-open the public hearing adjourned from the April 2014 meeting was made by Richard Benson and seconded by Robert Hoose.

5 in favor, 0 opposed

Chairman Carnell we asked the applicant to provide the Board with an updated survey. The applicant provided the Board with one specific to the building in question so we could have accurate dimensions. It should be noted that the dimensions are less than what was originally requested. Logan Ottino advised that the building is more in compliance now than what the applicant originally requested.

Chairman Carnell advised that the original variance request was 53' and 55' feet but with the new survey, it appears to be less, which is much better. The building separation, which was not shown on the map appears to be 18 feet. The Board discussed building separation issues. The building, Ted Lewis, advised it was 18 feet.

The Board members had no comment.

There was no public comment.

Chairman Carnell advised that the Board had received the County's 239 review, which was favorable.

- (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? All voted 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? All voted no.
- (3) Is the requested area variance 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 self-created? All voted yes.

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

5 in favor; 0 opposed.

Chairman Carnell requested that a motion to approve the variances be made. A motion was made by Richard McClemon and seconded by Richard Benson.

5 in favor; 0 opposed.

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

Josh Evans from Al Adler, PE

A motion to re-open the public hearing adjourned from the April 2014 meeting was made by Robert Hoose and seconded by Richard Benson.

5 in favor, 0 opposed

Proof of mailings were previously provided to the secretary by the former Engineer.

Chairman Carnell re-read the Public Notice.

Mr. Evans advised the Board that his office has very little clue as to what has transpired on this application, as Bill Sattler, the former engineer on the project from their office, worked on this file on his own.

Chairman Carnell advised that the Board acknowledges that the SPEDES permits are all up to date and that the Board wanted verification that the Unit has adequate space for additional bedrooms. There was previously an issue with a neighbor, Forever Wild Hunting Club, concerning septic issues, but that in the past two years there have been no complaints.

Logan Ottino confirmed that the entire site plan was reviewed by Town Engineer within the last 10 years and that there were other issues on the site such as decks, etc., built without permits. She further noted that Glenn Smith updated the septic system 3-4 years ago.

Jose DeJesus wanted to go on the record and advise that he has concerns with allowing decreased setbacks because of fire department access. Richard Benson noted that this Unit is near the road, not other buildings. Richard McClemon reminded the Board that the County advised we should not encourage this type of construction. Pamela Zaitchick commented that the Board really does not pay attention to the County's recommendations on this, although we should.

Logan Ottino advised the Board that this setback issue did not come into affect since 2006. The existing setbacks were allowed prior to 2006.

Chairman Carnell noted that there are at least other 3 units that are close. Pamela Zaitchick advised that the Board has to bring it up, as it continues to change as we grant variances. Chairman Carnell further noted that these buildings are all built prior to 2006. Richard McClemon advised that we are increasing the problem. Ms. Zaitchick confirmed with Logan Ottino that all the other buildings are non-conforming; she feels that if they too want to add on to their units, it could become a problem.

Richard Benson suggested that perhaps we should have a buffer zone surveyed in to new site plans to help alleviate this problem in the future.

Robert Hoose commented that applicants should build up, not out and for the next request, we should note that. Pamela Zaitchick did not see the bargain in doing that, as it is worse. Chairman Carnell advised that the applicants would be here before the Board anyway because of setback issues.

Robert Hoose advised that word should go back to the residents that this is the last variance we are granting in this site and they should build up. Pamela Zaitchick advised that at the last meeting, Mr. Sattler stated he was trying to discourage unit owners from going up.

The Board the had further discussion about setbacks.

Logan Ottino advised that this is a better kept colony. Many of the buildings are new. They are all sided. Compared to other colonies, this is a better one. It is always clean. Further, they are under the lot coverage issue percentages.

Richard McClemon asked Mr. Evans for the dimensions on the building to be built, since the application says it is well within the bulk table requirements. Mr. Evans advised it was a 12'x25' addition and 12'x24' deck.

The Board members had no further comment.

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? All voted yes.
- (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? All voted no.
- (3) Is the requested area variance substantial? All voted no because there are other structures closer to the road than this structure.
- (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 self-created? All voted yes.

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

The Board determined to act on the variances separately.

Chairman Carnell requested that a motion to approve the variance to increase a non-conforming structure. A motion was made by Richard Benson and seconded by Robert Hoose 3 in favor; 2 opposed.

Chairman Carnell requested that a motion to approve the variance for reduced setbacks and a motion was made by Richard Benson and seconded by Robert Hoose 3 in favor; 2 opposed.

A motion to take the last four applications out of order of the Agenda was made by Richard Benson and seconded by Richard McClernon. 5 in favor; 0 opposed

MOONLIGHT COTTAGES - 58 RUBIN ROAD - S/B/L: 43-1-23.3

Michael Rapfogel - Unit 31, Sara Zoldan - Unit 57 and Baruch Mandelbaum - Unit 30
Josh Evans from Al Adler, PE

Chairman Carnell advised that all three applications need to add a request to increase a non-conforming building. The Board can keep hearings open and we will take comments tonight, if any. The applicants must republish. They can simply amend their previously-filed applications.

A motion to keep the public hearings open on all three applications noted above to the June 10, 2014 meeting was made by Richard Benson and seconded by Robert Hoose. 5 on favor; 0 opposed

GABRIEL BETESH - 147 Harris Road - S/B/L: 4-1-85.3

Josh Evans from Al Adler, PE

Mr. Evans advised that the building is already built and the applicant is coming before the Board to get into compliance. A building permit was issued and a survey found an issue with the setbacks.

Chairman Carnell read the Public Notice.

Secretary noted that proof of mailing has not been received. Chairman Carnell advised that the Board will keep the public hearing until the June meeting to give Mr. Evans time to see if the mailings were sent. The Board can act pending receipt of proof of mailing. We know the notice was sent, as there were members of the public .

Chairman Carnell noted that the County's 239 review was not necessary on this application.

A motion to keep the public hearing open on this application to the June 10, 2014 meeting was made by Richard Benson and seconded by Robert Hoose.

5 on favor; 0 opposed

MAREK GIERNICKI - 34 RICHARDS AVENUE - S/B/L: 46-3-19

Mr. Marek Giernicki

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Chairman Carnell noted that the County's 239 review was not necessary on this application.

The Board members had no further comment.

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? All voted 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? All voted no.

(3) Is the requested area variance 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 self-created? All voted yes.

A negative declaration motion was made by Richard McClemon and seconded by Robert Hoose.

5 in favor; 0 opposed.

A motion to approval approve all of the requested variances was made by Richard McClemon and seconded by Robert Hoose.

5 in favor; 0 opposed.

Chairman Carnell advised the applicant that he should take care of whatever obligations he has with the Building Department immediately.

K&S OF SULLIVAN COUNTY REALTY CORP.361 GLEN WILD ROAD - S/B/L: 25-1-7

M. Grant Decker and Ken Presti

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Chairman Carnell noted that the building was not built within one year after it burned down and there are a couple of issues the Board is considering. Outdoor retail is permitted in the zone. However, the Board wants a better idea of how we can classify this application and move forward.

Mr. Presti advised that once a week we start a general public auction from 5:00 p.m. to 10:00 p.m. Occasionally we will do an auction during the week. The facility is not open during the week for retail. Last summer, we did auctions in the afternoon under a tent. We do a lot of estate work and we get overloaded. We were using the tent to alleviate the amount of items we have in stock. We have never missed a Saturday auction in 25 years.

Pamela Zaitchick asked if there ever a sales office and Mr. Presti advised they had an outlet store there once which sold salvaged items. We have not done that since the fire and we do not plan on doing that again.

Chairman Carnell asked if the premises was a pre-existing non-confirming use prior to the fire and Logan Orrino advised that in 2006 it was in the HC-1 zone, but the zone has changed to RR-1. The fire was after the zone change. In 2007, a Certificate of Occupancy was issued. It was noted at that time that the building was to be replaced in one year. Chairman Carnell noted that it is clear that this application is for outdoor sales. Mr. Decker advised that the applicant just wants to continue doing what he was doing prior to the fire and that the proposed building is actually smaller.

Chairman Carnell noted that setbacks will be an issue; but since this is a use variance, we need more information. We will need proof of financial hardship documentation for us to even make a determination. The Board is going to ask that you come to the next meeting with more information. We will have to republish. It was suggested that the applicant call Deputy Town Attorney Paula Kay for further guidance.

Mr. Decker asked if the applicant will have to go before to Planning Board and Chairman Carnell said maybe, it all depends on what the application asks for.

Logan Ottino noted that the Board does not want to send you to the Planning Board and spend the money there, only to get denied by the Planning Board. This is the best way to go.

Mr. Decker advised that their concern would be that the Town Engineer will have more requirements. Logan Ottino confirmed the Planning Board will be looking for landscaping, etc.

Chairman Carnell advised that the Board needs to determine what the actual use of the premises is. It is a sales and service establishment. The Board needs classification. We would normally use the permitted use, but auction houses are not in the code.

Mr. Decker confirmed that he will call attorney Paula Kay for guidance.

Mr. Presti advised the Board that he would have re-built immediately but it took his insurance company five years to approve and pay out his insurance claim.

Public Comment: William Kaszas was here because he received the mailing, but had no comment.

A motion to keep the public hearing open on this application to the June 10, 2014 meeting was made by Richard Benson and seconded by Robert Hoose.

5 on favor; 0 opposed

A motion to end the meeting at 8:00 p.m. was made by Richard McClemon and seconded by Robert Hoose.

5 in favor; 0 opposed.

Respectfully submitted,

Kathleen Brawley, Secretary
Town of Thompson Zoning Board of Appeals