

**APPROVED**

**TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
Tuesday, November 11, 2014**

**IN ATTENDANCE:**      Chairperson James Carnell      Richard Benson  
                                 Richard McClernon      Pamela Zaitchick  
                                 Robert Hoose      Jose DeJesus, Alternate  
                                 Brian Soller, Alternate      Paula Elaine Kay, Attorney  
                                 Kathleen Brawley, Secretary  
                                 Logan Ottino, Building Inspector

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

Chairman Carnell asked for a moment of silence in honor of our Veterans.

Chairman Carnell asked for a motion to accept the October 14, 2014 meeting minutes. A motion to accept the minutes was made by Robert Hoose and seconded by Richard McClernon. 4 in favor, 0 opposed

**TAMMY LARA - 78 Glen Wild Road - S/B/L: 32-1-32**

Tammy Lara

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

Acting Chairman McClernon asked for a motion to re-open the public hearing on this application. A motion was made by Richard Benson and seconded by Robert Hoose. 4 in favor, 0 opposed

Paula Kay, Esq. advised that the Board has received the County of Sullivan's determination pursuant to GML §239 and it was noted that the County referred this matter for local determination.

Proof of mailing was provided to the secretary at the October 14, 2014 meeting.

The Board members had no 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.

Acting Chairman McClernon requested that a motion be made to approve the variances as requested. A motion was made by Robert Hoose and seconded by Richard Benson. 4 in favor; 0 opposed.

**HERSHY BIGEL- 171 Kaufman Road, Unit 41 - Section 12 Block 1 Lot 5.7**

Allen Frishman, Regional Planning and Permits

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Frishman advised that he did provide site maps from Al Adler's office indicating what the setback measurements are. The areas are noted on the maps are where the applicant wants to add on. The separation distance will increase on one side but the other side will remain the same. The front, where the light dotted line is on the map, is a new replacement screened porch which was previously rebuilt. The applicant is going to keep that porch but cut the back of the building off, because it is more economical. Both portions are under 200 square feet to increase. It remains a single story unit. It is three bedrooms with no increase in bedrooms.

Jim Carnell asked Logan Ottino if the applications submitted by the applicant show whether or not these improvements are for bedrooms and Ms. Ottino advised that she did not have any applications, as this application was a referral from the Planning Board, however; the property is located in a sewer district so the number of bedrooms is not an issue.

Mr. Frishman acknowledged that the applicant will need a building permit.

Pamela Zaitchick asked if the space between buildings is being reduced and Attorney Paula Kay confirmed that it was. Ms. Zaitchick noted that for fire purposes, it is a lot. Logan Ottino advised that the buildings are not going out any further. Brian Soller noted that basically, the applicant is squaring the building off.

Mr. Frishman advised that this is why we felt the addition was an improvement. Mr. Frishman

offered to show the Board the new floor plan for the premises. Upon inspection, Mr. Frishman noted that there were four bedrooms, not three as previously discussed.

Richard McClernon asked if there will be decks or porches constructed on the unit? Mr. Frishman advised that there will be porches and Logan Ottino confirmed that there are porches. Mr. Frishman advised that there will be a roof over the porch.

Mr. Frishman advised that the applicant is rebuilding the habitable space to make it more energy efficient and bring it up to date.

Chairman Carnell asked if the Board received an owner's proxy and Attorney Paula Kay confirmed that the Board did receive the same.

Attorney Paula Kay advised that once approved, the applicant will go before the Planning Board for site plan approval. Chairman Carnell asked Logan Ottino if there are any outstanding violations and Ms. Ottino advised she did not think so, there are just open building permits.

Chairman Carnell asked if the proposed square footage is below the allowable percentage and Mr. Frishman advised that it is less than 200 square feet being added on, since the applicant is subtracting a portion of the previous building. Richard McClernon advised that there is no such provision for adding or subtracting in the Town Code. Chairman Carnell said that the floor plan notes that the square footage is less than 200 square feet.

Attorney Paula Kay asked Mr. Frishman if he responded to the letter from Henri Shawn, Esq., the attorney for an adjoiner and Mr. Frishman advised that he did. Attorney Paula Kay advised that one of the issues raised by Henri Shawn, Esq. was an increase of density, but based on Board discussion and Mr. Frishman's response, it was determined that there was no increase in density.

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. Considering the existing setbacks, it is actually improving the property.
- (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 Pamela Zaitchick 5 in favor; 0 opposed.

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

**JOSEPH SPREI and RIFKEY MILLER**  
**171 Kaufman Road, Units 25/26 - Section 12 Block 1 Lot 5.7**  
Allen Frishman, Regional Planning and Permits

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Frishman advised that the units in question are units 25 and 26

Chairman Carnell noted that the proposed changes are a substantial improvement to the property.

There was no public comment.

Receipt of the letter from the attorney for the adjoiners, Henri Shawn, Esq., was noted and once again, the Board recognizes that the density is not increasing. Mr. Frishman noted that one bedroom was going to be added to each unit, as it is duplex. Chairman Carnell noted that the bedroom issue was one for the Planning Board.

- (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.

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

**GAIL P. D'AGOSTINO IRREVOCABLE TRUST**  
**208 Bowers Road, Rock Hill, NY - Section 25 Block 1 Lot 51.5**  
Gerald D'Agostino

Attorney Paula Kay recused herself from participating in this application, since she was sent notice by the applicant.

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Chairman Carnell confirmed with the applicant that he is constructing a new separate building, with a separate well and septic and that he is not tying into the existing well or septic.

Public comment: It was noted that Jonathan Drapkin, a neighbor of the applicant, submitted a letter in support of this application to the Board. Mr. Drapkin asked to speak to the Board as well.

Jonathan Drapkin: I have lived on Bowers Road for ten years. I never thought I would have a home like this. It means everything to me, coming from Queens. I sit in my rocking chair on the front porch of my house and look out at the pond. The D'Agostino's property is in my view. If I thought this application would hurt my view in any way, I would be here screaming bloody murder. Mr. D'Agostino is a great neighbor. He maintains his property immaculately. You can barely see his home from the road. The additional building he is adding could be much larger by law, but he chose to build smaller. I know the new building will be as nice as the house he has now. I ask that you all give due consideration to approve this. I have the most direct view shed of the property and I support this application.

- (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 motion to approve the variances as requested was made by Richard Benson and seconded by Richard McClernon.  
5 in favor; 0 opposed.

**SEAN MENON and DAWN MENON**  
**North Shore Road, Rock Hill, NY - Section 36 Block 8 Lot 1**  
Sean Menon

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Menon advised that he was before this Board a year ago. These variances were approved at that time, but have expired. We have made no changes. We have had soil samples taken twice in the past year, so we did get the septic and well design set.

Attorney Paula Kay advised that the last time the Board approved your application, the approvals were subject to Department of Health approvals. Mr. Menon advised that they are still waiting for that approval.

Public Comment: Lawrence Corkey, Member of the Wanaksink Board. We have kept Mr. Menon on the calendar every month for the last year. It has been under constant review by our Board and we have no problems with his application.

James Harris, a neighbor, advised that he was not at the original hearing for the variance request and he had some questions about set backs. Chairman Carnell offered Mr. Harris to review the proposed site plan.

Mr. Corkey advised that the way the Building Department wrote this denial, the applicant has two front yards. Lake is one front yard, the right of way is the second.

Logan Ottino advised that the applicants are actually 60 feet from the lake.

Chairman Carnell advised that the right of way provides access for the members.

Sharon Rose, a neighbor of the applicants, asked what is considered the back of the house? Logan Ottino advised that it is opposite of the lake, on First Road. Ms. Rose asked if the side yard is adjoining the neighbor Diamond? Is that in question tonight? Chairman Carnell confirmed it was and offered the site plan for Ms. Rose's review. Ms. Rose advised that she has not heard if the Department of Health has signed off on this application yet and Attorney

Paula Kay advised that the Department of Health determination is still pending.

The Board members had no questions.

- (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? 4 voted No. 1 voted Yes. [Zaitchick]
- (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.

Mr. Menon advised that he has been going through this process for a year. Perc tests have been done and have been positive. The Department of Health then asked to administer their own perc test which also came back positive. Mr. Menon's engineer has given them the okay. They don't get timely responses from the Department of Health. What are our remedies? What are our next steps? Attorney Paula Kay advised that unfortunately, there is nothing this Board can do. Essentially, you need this approval in order to go the Department of Health. If in a year you are in the same position, there is no prejudice and you can come back before this Board again. As far as the Town is concerned, there is nothing we can do. Mr. Menon advised that when the Department of Health was on the premises, everything was fine. Then we received subsequent comments with no changes. The Department of Health has changed their minds several times from approving 3 bedrooms to 0.75 bedrooms with a waterless toilet. Attorney Paula Kay advised that unfortunately, there are no other means. Our Town Code only allows for a variance of six months, with an additional six month extension. Chairman Carnell advised that this one year limit follows State limitations and regulations which we adopted.

Mr. Menon asked if he has the ability to get a six month extension again and the Board all confirmed that he does.

Chairman Carnell advised that as far as this Board goes, this application obviously does not comply with the normal requirements and we have to keep Department of Health approval as part of the motion and approval.

A motion to approve the variances as requested subject to Department of Health approval, was made by Richard Benson and seconded by Richard McClernon.  
5 in favor; 0 opposed.

**ELIZABETH BARRETT and DOUGLAS J. FORAND**

**279 South Shore Drive - Section 66 Block 42 Lot 10**

Russell Stein, Contractor

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Chairman Carnell advised that from what the Board understands, a lot of those setback requests are from construction for prior owners. Mr. Stein confirmed that was the case.

Mr. Stein advised that the existing deck was issued a Certificate of Compliance. However, when we applied for a Building Permit for this addition, it was learned that the prior deck was actually not in compliance.

Mr. Stein showed where the new proposed deck is going to be which is not in violation. Robert Hoose asked where the septic tank was and Mr. Stein advised that it is under the front deck with a hatch. Mr. Hoose asked about the generator enclosure shown on the plan. Mr. Stein advised that it was not in use anymore, but it was run by propane.

Mr. Stein confirmed that the existing deck is the problem and not the new proposed deck.

Attorney Paula Kay advised that she wants to be sure that the application is accurate. It sounds like you made changes since you applied. Mr. Stein said he made no changes. Logan Ottino said if the application was made based on her disapproval letter, then the application is correct. Attorney Paula Kay asked Logan Ottino if that the application was correct and Ms. Ottino advised that the application was incorrect, but the public notice was correct. The Board asked Mr. Stein to amend his application to correctly reflect what variances he was requesting. He noted the differences on his application rather than what the actual variances were.

Jose DeJesus asked for clarification on why they need a variance for the existing deck. Does the new deck need approval? What about the stairs? Logan Ottino advised that the new deck does not need approval and the stairs are not part of the setbacks.

- (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 motion to approve the variances as requested was made by Richard Benson and seconded by Richard McClernon.

5 in favor; 0 opposed.

A motion to end the meeting at 7:50 p.m. was made by Richard McClernon and seconded by Robert Hoose.

4 in favor; 0 opposed.

Respectfully submitted,



Kathleen Brawley, Secretary

Town of Thompson Zoning Board of Appeals