

APPROVED

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

IN ATTENDANCE: Chairperson James Carnell Richard Benson
 Richard McClernon Pamela Zaitchick
 Robert Hoose Jose DeJesus, Alternate
 Brian Soller, Alternate Paula Elaine Kay, Attorney
 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 motion to accept June 10, 2014 meeting minutes. A motion to accept the minutes was made by Pamela and seconded by Richard McClernon
5 in favor, 0 opposed

GAB HOLDING, LLC - 730 Cold Spring Road - S/B/L: 60-1-23

Chairman Carnell advised that the applicant, GAB Holding LLC, advised that they will not be appearing tonight. It was noted that there was no public in attendance for this application.

MONTY ALPHA, LLC - BRIDGEVILLE ROAD - S/B/L: 31-1-23.2

Douglas Barthel, Rock City Media

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Barthel advised that they are replacing the existing billboards. It is a high wind area, so they will be constructing the signs with mesh vinyl over a hurricane frame so the wind will not take it down. There was previously a sign between the two signs in question, but it was not his and it was removed and not replaced. It was for Cimarron City West Town.

Chairman Carnell asked Mr. Barthel if the poles have been there without signs attached and Mr. Barthel confirmed that the poles were still there and the signs were either taken down or blown down.

Mr. Barthel advised that he was before the Board because the Building Department sent him to the ZBA. He felt that no variance was needed since the signs are on are two different

roads. One sign fronts on Bridgeville Road and one fronts on West Broadway.

Kenneth Bock, of 24 Rose Valley Road had some questions concerning this application. Chairman Carnell advised Mr. Bock that the reason Mr. Barthel is here is that the Town has a law that only permits one billboard per 1000 feet. Mr. Bock argued that there are three signs there. Mr. Barthel advised that the poles are there now and there are only two signs. Mr. Bock realized that he didn't even notice the poles were there already. He was mistaken on the location of the signs and noted that he would not even see them from his property.

Logan Ottino advised that the Building Department records note that in 2012 that there were four signs on the property. Mr. Bock advised that the signs fell down during a storm. Mr. Barthel advised those signs were rebuilt. Chairman Carnell advised Mr. Bock that because they are putting new advertising on old poles, the applicant has to come before the Board for a variance. Mr. Barthel noted that the DOT license plate is still on one of the poles; they are all permitted by the DOT. Mr. Bock advised the Board that he is fine with this application.

Pamela Zaitchick reminded the Board that the County has denied this application under their 239 review. Attorney Paula Kay advised that the County said there are inter-community impacts caused by these billboards and that means we need a super-majority to approve it. Joe DeJesus also noted that the County felt the signs were too close together and a distraction to drivers.

The Board members had no further 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 Robert Hoose and seconded by Richard McClernon.

5 in favor; 0 opposed.

Chairman Carnell requested that a motion be made to approve the variances as requested. A motion was made by Robert Hoose and seconded by Richard McClernon. 5 in favor; 0 opposed.

CAMP IROQUOIS SPRINGS - 64 Bowers Road - S/B/L: 33-1-1.1

Glenn Smith, P.E.

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Smith advised that the applicant has a series of staff buildings coming into the property. There is a 100 foot setback requirement in this zone, but these buildings have been there years prior to the establishment of the Code. The applicant wants to line up a new staff building with the three existing buildings so it looks nicer. Mr. Smith presented photos to the Board. Mr. Smith further noted that there is a utility line behind the proposed building so they cannot move it back much more than what is proposed. The building will be 15 feet from the Road. The applicant is in front of the Planning Board and needs this variance for site plan approval. Of course, the Planning Board is going to have additional comments and will designate itself as Lead Agency.

Pamela Zaitchick inquired as to the size of the building and Mr. Smith noted that it is a little larger than the existing buildings. It was also noted that no review under GML §239 was required.

Mr. Smith advised the Board that the applicant is putting money into the camp and has another application before the Planning Board for a new dining hall. The applicant is really making the premises nice. The premises is used as a summer camp but it also used off-season for other events.

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, as the other buildings are the same distance.
- (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.

Chairman Carnell requested that a motion to approve the variance be made and a motion was made by Robert Hoose and seconded by Pamela Zaitchick.
5 in favor; 0 opposed.

EDWARD SCOTT - 283 Rose Valley Road - S/B/L: 50-1-26.1

Mr. Edward A. Scott

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Chairman Carnell asked Mr. Scott if the existing carport will be removed and Mr. Scott advised it will be removed. The carport is 12'x20'. Mr. Scott wants to take the carport down and install a concrete slab and new garage. The proposed size of the garage will be 22'x32' which includes a one foot overhang off the building. The actual building size without the overhang is 20'x30'. Mr. Scott thought that the overhang had to be included in the setback calculations. Chairman Carnell confirmed with Mr. Scott that the garage will be 20'x30' but with the overhang, the footprint is 22'x32'. Mr. Scott advised that the carport has been there for 44 years and it needs to be replaced.

Mr. Scott advised that the request of the reduced setback of 23 feet was calculated from the proposed location of the garage to the edge of the road. Chairperson Carnell advised that the property line is most likely the center of the road; so the setback requested will actually be 19 feet. Mr. Scott advised the Board that the Building Department told him he needed a 23' setback.

Logan Ottino asked Mr. Scott what the setback request would be without the overhang and Mr. Scott advised it was 19' to the edge of the road. Ms. Ottino asked if Mr. Scott knew if his property line went to the middle of the road and Chairman Carnell advised that all of the older houses on that road do, since they were built prior to Town Roads being dedicated.

Attorney Paula Kay advised the Board that it should be made clear that it is 19' to the edge of the road, so the garage will be at least 23' to the center of the road. Obviously, more

would be fine.

Mr. Scott asked four purposes of calculating the setback, do we calculate from the side of the building or the overhang? Logan Ottino advised it was from the side of the garage.

Mr. Scott advised that he has some room to move the location of the proposed garage. Chairman Carnell advised Mr. Scott that before he pours the slab, he should measure the edge of the forms to the center of the road. As long as it is 23' or more, you are fine.

Chairman Carnell further asked Mr. Scott to confirm that there is no septic, well, electrical lines, etc., on the proposed area to be built? Mr. Scott said no and the septic is in the back of the house.

Mr. Scott asked Logan Ottino if he could take out the two smaller doors and install one larger door up and Ms. Ottino confirmed he could.

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 Robert Hoose and seconded by Richard Benson. 5 in favor; 0 opposed.

Chairman Carnell requested that a motion be made to approve the variances as requested. A motion was made by Richard Benson and seconded by Richard McClernon. 5 in favor; 0 opposed.

DANIEL WOOLEY - 188 Wolf Lake Road - S/B/L: 66-21-4

Mr. Daniel Wooley

Chairman Carnell read the Public Notice.

Proof of mailing was provided to the secretary.

Mr. Wooley advised that Wolf Lake Homeowner's Association denied with his original request for this deck and provided the Board with a copy of correspondence from the Homeowner's Association. They will only permit a 18'x12' deck. Attorney Paula Kay advised Mr. Wooley that because he reduced the square footage of the deck, the only variance he needs approval for is increasing a non-conforming structure. [Town Zoning Code §250-21(b)(4)]

Chairman Carnell calculated the combined setback figures and advised that it is a total of exactly 50 feet and no other variance is necessary.

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 McClernon and seconded by Richard Benson.

5 in favor; 0 opposed.

Chairman Carnell requested that a motion be made to approve the variance as requested. A motion was made by Pamela Zaitchick and seconded by Richard McClernon.

5 in favor; 0 opposed.

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

Josh Evans of Alvin Adler, P.E.

Mr. Evans advised the Board that he has already started working with Moonlight to close permits and start bringing them into compliance.

Pamela Zaitchick asked if fines will be imposed for building without permits? Attorney Paula Kay advised that she believed the Town came into agreement with Moonlight about a year ago and that an assessment of the entire property needed to be done before fines were imposed. Attorney Paula Kay does not believe that fines were discussed with the owners yet. However, we have been out to the site; there will be fines assessed, but they will not be against these individual owners, but against the owner corporation.

It was determined by the Board to go through each application separately.

MOONLIGHT COTTAGES - BARUCH MANDELBAUM - UNIT 30

Josh Evans of Alvin Adler, P.E.

Chairman Carnell read the Public Notice.

Mailings were completed and proof of mailing will be provided to the secretary.

Mr. Evans advised that they are not coming any closer to existing structures with the proposed modifications to these units.

Chairman Carnell asked the Board if they had any questions with respect to Unit 30 (Mandelbaum), Joe DeJesus inquired about a road on the site plan near the new addition. It was confirmed that it is an interior road. Mr. DeJesus asked if there was any additional requirement because they are building on top of that road and Attorney Paula Kay advised there was not.

There was no public comment

Chairman Carnell advised that it is noted on the plans that this is a two bedroom addition, with an extension of the living room.

Brian Soller advised that he feels that the Board needs to be consistent with the issuance of the variances. We know a lot of this was built prior to the Code, but will members of Moonlight keep coming before us and asking for a reduction in building separation? I understand that it is easy to send them back to the Planning Board for further review. I just

feel we need to be more consistent.

Joe DeJesus noted that he also understands that these are existing; but what happens in the future? Mr. Evans advised that the applicant is not reducing any separation distances on this building in particular.

Richard McClernon noted that the applicants have 80 acres that is buildable. What is the number of buildings they are allowed per acre? Chairman Carnell advised that they are required to have 1.9 units per acre or two units per acre. They have less than that at 1.4 units per acre. They are fine.

Brian Soller asked the Board to review the plans. If you look at Units 30, 31 and 49, if 30 is going out 12 feet and 49 is coming out as well, it could potentially be an issue. Chairman Carnell advised that they still meet the setback requirements. Logan Ottino advised that we cannot make them go more than the required 25 feet between buildings.

The Board members had no further 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? 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.

Chairman Carnell requested that a motion be made to approve the variance requested by Mandelbaum (Unit 30) and a motion was made by Richard Benson and seconded by Robert Hoose

3 in favor; 2 opposed (McClernon and Zaitchick).

MOONLIGHT COTTAGES - MICHAEL RAPFOGEL - UNIT 31

Josh Evans of Alvin Adler, P.E.

Chairman Carnell read the Public Notice.

Mailings were completed and proof of mailing will be provided to the secretary.

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? 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.

Chairman Carnell requested that a motion be made to approve the variance requested by Rapfogel (Unit 31) and a motion was made by Robert Hoose and seconded by Richard Benson.

3 in favor; 2 opposed (McClernon and Zaitchick).

MOONLIGHT COTTAGES - NORMAN LAST - UNIT 49

Josh Evans of Alvin Adler, P.E.

Chairman Carnell read the Public Notice.

Mailings were completed and proof of mailing will be provided to the secretary.

There was no public comment.

Richard McClernon asked what the current distance is between units 49 to 30 and Chairman Carnell advised it is currently 41 feet from the proposed addition to Unit 49 from Unit 30. Mr. McClernon noted that it would be nice if they would include that on the site plan and Logan Ottino advised it will be noted once the entire site plan is done.

Chairman Carnell noted that the distance between the proposed addition to Unit 49 to the proposed addition on Unit 30 is 47 feet.

Joe DeJesus noted that there are air conditioning vents there right on the deck. Are they are going to put a deck next to it? Is that okay? Mr. Evans advised that he can ask the homeowner to move the vents to the back of the addition if that is a requirement.

(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.

Chairman Carnell requested that a motion be made to approve the variance requested by Norman Last (Unit 49) and a motion was made by Richard Benson and seconded by Robert Hoose

3 in favor; 2 opposed (McClernon and Zaitchick).

MOONLIGHT COTTAGES - SARA ZOLDAN (UNIT 57)

Josh Evans of Alvin Adler, P.E.

Chairman Carnell read the Public Notice.

Mailings were completed and proof of mailing will be provided to the secretary.

There was no public comment.

Chairman Carnell advised that the Unit abuts Rubin Road, a Town Road.

Mr. Evans advised that in 2012, Mrs. Zoldan got a variance, however, she let it expire because they were not allowed to do issue new building permits until the whole mess at Moonlight was straightened out. She did get an extension but then it ran out and she forgot to renew the same. Attorney Paula Kay asked Mr. Evans to verify what the variance was for and Mr. Evans advised it was for a front setback for an addition and is shown in red on the map. Mr. Evans provided a copy of the Decision previously issued by the Board. Chairman Carnell noted the numbers were not correct on the prior Decision. Logan Ottino advised that the 30 foot issue is that they were initially issued variances as cluster development setbacks and not bungalow colony setbacks. That is part of the issue.

Robert Hoose noted that basically, Ms. Zoldan is starting over. Joe DeJesus noted that the applicant is requesting a reduced separation distance of 18' 3" and a decreased front yard setback from the required 100 feet to 23 feet, 9 inches, which is completely different than the others. The other Board members agreed.

Chairman Carnell noted that the old 20'x20' addition shown on the site plan is already constructed. Have we been able to address open permits? Mr. Evans confirmed that there are still open Building Department issues on this Unit. Logan Ottino advised that they will be resolved when the applicant goes before the Planning Board.

Chairman Carnell advised that this unit has open violations. They need to correct those. It is a substantial request. It is the main entrance to the premises.

(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 Yes.

(3) Is the requested area variance substantial? All voted Yes.

(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 Yes.

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

Chairman Carnell requested that a motion be made to deny the variance requested by Sara Zoldan (Unit 57) based upon the criteria noted, the impacts which it will have on adjoining property owners and that there are still open violations on the Unit. A motion was made by Pamela Zaitchick and seconded by Robert Hoose
5 in favor; 0 opposed.

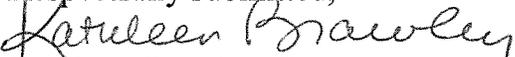
Mr. Evans thanked the Board for its time.

Chairman Carnell asked the Board if they were interested in becoming members of the New York Planning Federation. We have not been a member of the Federation since 2010. They offer training at reduced rates and sometimes free. Chairman Carnell asked Supervisor Rieber if we can get re-join and Supervisor Rieber said it may be worth it if we get something for it. Attorney Paula Kay said they may send someone to us to do the classes. After discussion, the Board recommended that we become members.

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

5 in favor; 0 opposed.

Respectfully submitted,



Kathleen Brawley, Secretary

Town of Thompson Zoning Board of Appeals