

APPROVED

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TOWN OF THOMPSON

**TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, August 11, 2015**

IN ATTENDANCE: Chairperson James Carnell Richard McClernon
 Richard Benson Pamela Zaitchick
 Brian Soller, Alternate Jose DeJesus, Alternate
 Kathleen Brawley, Secretary Eric Horton, Building Dept.
 Paula Elaine Kay, Attorney

ABSENT: Robert Hoose

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

A motion to wait to approve July minutes; McClernon and Benson

WILLIAM VALENTIN

6 Little North Shore Road, Rock Hill, NY - S/B/L: 36.-10-4

Chairman Carnell read the public notice. Applicant is requesting area variances from §250-8 of the Town of Thompson Zoning Code for the purpose of:

- 1) reducing one side yard setback from the required 20 feet to 8 feet;
- 2) reducing an additional side yard setback from the required 20 feet to 14 feet;
- 3) reducing a front yard setback from the required 50 feet to 28 feet;
- 4) reducing a rear yard setback from the required 50 feet to 11 feet;
- 5) reducing the combined side yard setbacks from the required 50 feet to 22 feet; and
- 6) permitting an increased lot coverage from the required 10% to 27.9%.

Mailings were submitted to the Board.

Chairman Carnell confirmed that the adjacent lot was combined with the lot in question. Chairman Carnell asked about setbacks shown on the plan provided. Variances were noted on the plan, Chairman Carnell asked for clarification of the same. The Board needs clarification on a couple of items including item #9 on the plan regarding the proposed well location and its proximity to an adjoining septic system, which is not permitted. This Board will not move forward on this without Department of Health approval. Attorney Paula Kay advised the applicants about a previous application which was similar to this application and the fact that the Department of Health refused to issue a waiver concerning the location of the well.

Mr. Valentin apologized for not providing a new update survey and plan which reflects that the lots are in fact combined. Mr. Valentin advised that the new proposed building is smaller than what was existing. He advised that he spoke with the Homeowner's Association to determine the easiest way to proceed. It appears that the Homeowner's Association denied the applicants' first request and then provided the applicants with an acceptable solution.

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Chairman Carnell noted that all setbacks are being improved from what the original request was. Chairman Carnell would like to keep the hearing open. The Board questioned about the lot coverage and it was discussed that it has increased from 19% to 27.9%.

Richard McClernon asked if the applicants could get an updated letter from the Homeowner's Association.

Public comment: John Konefal, Wanaksink Homeowners Association, advised that the Association does not object to the applicants building, but they do object to the applicants' front yard setbacks. They have a required 50' setback and this does not meet it. It was before the Wanaksink Homeowners Association Planning Board, they approved the proposed building but the Board of Directors itself rejected it unanimously. Attorney Paula Kay advised that the Homeowners Association's required setback is not enforceable by this Board but we will note it for the file. Mr. Konefal advised that the present deck is not in conformity and has no Certificate of Occupancy. Pamela Zaitchick questioned if the deck could be moved. Mr. Konefal advised that the Board of Directors gave the applicants other options to keep their deck.

Brian Soller noted that there are several setbacks noted on the plan. Mr. Konefal advised that the 50 foot setback is measured from the water line.

Chairman Carnell asked that the applicants verify that the actual footprint of the building is what is on the plan and what setbacks are being calculated, since the numbers do not seem to match. Chairman Carnell also asked that the applicants get the issue with the well issue (item 9 on the plan) resolved as well. Mr. Valentin asked about the requirements for the distance between well and septic and Chairman Carnell advised that it varies by the type of system, etc.

Discussion was had about the patio versus the deck and the applicants advised that a patio was not really desirable based upon the location and height of the home.

Chairman Carnell warned the applicants that if their requested variances are greater than what was originally requested, they would have to send out notices again.

A motion to hold the public hearing open was made by Pamela Zaitchick and seconded by Richard McClernon.

4 in favor; 0 opposed.

KENNETH AND BELINDA RUBINO
56 Lake Shore Drive South; S/B/L: 52.1-1-10

Jose DeJesus recused himself from this application.

Chairman Carnell read the public notice. Applicant is requesting an area variance from various sections of the Town of Thompson Zoning Code for the purpose of:

- 1) §250-B: increasing a non-conforming structure;

- 2) §250-19A(1): decreasing the waterfront lot size from the required 20,000 square feet to 13,721 square feet;
- 3) §250-7: reducing the combined side yard setbacks from the required 40 feet to 27.5 feet;
- 4) §250-7: reducing one side yard setback from the required 15 feet to 13 feet; and
- 5) §250-7: reducing an additional side yard setback from the required 15 feet to 14.5 feet.

Mailings were submitted to the secretary.

Chairman Carnell advised that discussion was had during the work session that there is a provision in the Zoning Code (250-21C) which reflects that if 60% of a pre-existing, non-conforming lot, you get a 25% reduction in the required setbacks. What this means is that the applicants may not need all of the setbacks requested. It appears that the applicants do meet the minimum lot area. Emerald Green previously approved this application.

Mrs. Rubino clarified that the deck is not an issue, it is just the house. Chairman Carnell confirmed the same and advised that it will hopefully be resolved tonight.

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 motion to approve the combined side yard area variances (the only variance that is required) as requested was made by Richard McClernon and seconded by Pamela Zaitchick.
4 in favor; 0 opposed.

For the following two applications, since the properties are adjoining and both being presented by A.J. Pantel, the Board determined to hear both applications at the same time, but vote on them separately.

KARIN PANTEL

49 Foss Road, Thompsonville, NY - S/B/L: 24.-1-60.2

A.J. Pantel

Chairman Carnell read the public notice. Applicant is requesting an area variance from various sections of the Town of Thompson Zoning Code for the purpose of:

- 1) §250-39(A) decreasing the permitted fence height from the required 8 feet to 6 feet;

- 2) §250-16: permitting a reduced setback for storage buildings from the required 10 feet to 5 feet;
- 3) §250-16: permitting an additional reduced setback for storage buildings from the required 10 feet to 0 feet;
- 4) §250-11: reducing the permitted lot size for storage buildings from the required 3 acres to 1.15 acres;
- 5) §250-16: permitting a storage structure nearer to the fronting street than the main building;
- 6) §250-16: permitting a reduced setback for existing greenhouse structure from the required 10 feet from any lot line to 1 foot.

Mailings were submitted to the secretary.

A.J. PANTEL

Foss Road, Thompsonville, NY - S/B/L: 24.-1-27

A.J. Pantel

Chairman Carnell read the public notice. Chairman Carnell read the public notice. Applicant is requesting an area variance from various sections of the Town of Thompson Zoning Code for the purpose of:

- 1) §250-39(A) decreasing the permitted fence height from the required 8 feet to 7 feet;
- 2) §250-39(A) decreasing the permitted fence height from the required 8 feet to 7 feet 6 inches; and
- 3) §250-11: reducing the permitted lot size for storage buildings from the required 3 acres to 2.10 acres.

Mailings were submitted to the secretary.

Attorney Paula Kay advised that Mr. and Mrs. Pantel have been working with the Town to bring both properties into compliance. They were previously before the Planning Board and were denied and sent to this Board. The goal is that if this Board approves the variances, they will move immediately back to the Planning Board and finish the process.

Pamela Zaitchick asked why there was a 0 foot variance. Attorney Paula Kay advised that they are using the existing condition. Chairman Carnell noted there is a fence on the lot line.

Mr. Pantel advised that when he purchased the property a survey was not made and as such, all of these issues were not discovered. Mr. Pantel has owned the property since 1979. Chairman Carnell advised that the Pantels were previously before this Board for another matter.

Richard McClernon asked about the storage building on the front of the house. Pamela Zaitchick asked if they are trying to get rid of it or screen it and Mr. Pantel advised that the fence will be erected to hide it. When it comes time to add fencing, he will erect an eight foot fence. Chairman Carnell noted that a residential lot permits only a six foot fence but in this instance, an eight foot fence is required. Mr. Pantel further noted that the zoning was changed after he purchased the

property. Mr. Pantel advised that if he could have accommodate the Town previously, he would have.

Chairman Carnell asked about what other issues are open. Eric Horton advised that there are some Certificate of Occupancy issues and he did an inspection of the property, but not the house. The violations within the house were very minimal. An electrical inspection was missing and has since been remedied. Chairman Carnell asked if there were any other major issue that the Planning Board had with this property. Are the applicants in violation in other ways? Is the Planning Board going to move forward once the variances are requested? Attorney Paula Kay advised that although the Planning Board did not go into depth with this application, Mr. Pantel has met with the Town Engineer a couple of times to address these issues and is actively working on resolving the issues, which are numerous.

Chairman Carnell noted that although the applicants are asking for different fence heights, obviously only the greatest variance needs to be approved.

There was no public comment.

WITH RESPECT TO THE APPLICATION OF KARIN PANTEL:

- (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 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 No.
- (5) Is the alleged difficulty self-created? All voted Yes.

A motion to approve the area variances as requested by Karin Pantel (S/B/L: 24.-1-60.2) was made by Richard Benson and seconded by Richard McClernon.
4 in favor; 0 opposed.

WITH RESPECT TO THE APPLICATION OF A.J. PANTEL:

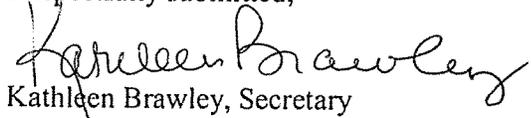
- (1) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted No.
- (2) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be 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 area variances as requested by A.J. Pantel (S/B/L: 24.-1-27) was made by Richard Benson and seconded by Richard McClernon.
4 in favor; 0 opposed.

A motion to close the meeting at 7:52 p.m. was made by Richard McClernon and seconded by Pamela Zaitchick.

4 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