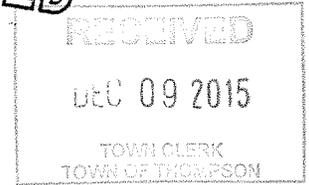


**TOWN OF THOMPSON
ZONING BOARD OF APPEALS
Tuesday, November 10, 2015**

APPROVED



IN ATTENDANCE:

| | |
|-------------------------------|----------------------------------------------------|
| Chairperson Richard McClernon | Richard Benson |
| Pamela Zaitchick | Robert Hoose |
| Brian Soller | Jose DeJesus, Alternate |
| Kathleen Brawley, Secretary | James Carnell, Director - Building/Planning/Zoning |
| Paula Elaine Kay, Attorney | |

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

A motion to change the order of the agenda was made by Robert Hoose and seconded by Brian Soller.

5 in favor, 0 opposed

ANNE STEVENS and RON STEVENS
149 Winston Drive, Monticello, NY - S/B/L: 47.-1-5
Jason Troxel

Applicant is requesting an area variance from §250-7 of the Town of Thompson Zoning Code for the purpose of permitting a reduced front yard setback from the permitted 50 feet to 41 feet.

Mailings were submitted to the secretary.

Mr. Troxel advised that the applicant is building a dormer to avoid ice and snow build up. Without this dormer, it may be difficult for emergency personnel to enter the home, as well as the applicants going in and out of the home.

The applicants started building without a Building Permit. Mr. Troxel advised that the Building Department advised the applicants that they need to pay a \$500.00 fine. Attorney Paula Kay advised that Mr. Troxel can take this up with Jim Carnell to resolve the same. Attorney Paula Kay felt that the issue may have arisen when the Building Department learned of the setback issue.

Richard Benson asked for confirmation of the size of the deck, as the Board does not have any plans. Jim Carnell advised that the Building Department does have plans for the new construction. Mr. Troxel advised that it is presently nine feet by seven feet.

Richard Benson asked if the 41 feet distance is the actual distance. Jim Carnell advised that the plans were drawn off of a survey and the distance was measured.

There was no public comment.

The Board had no further comments.

Town of Thompson ZBA
November 10, 2015

- (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 variance as requested was made by Brian Soller and seconded by Richard Benson
5 in favor; 0 opposed

LOCKI T. KASIOTIS

47 Cooper Road, Monticello, NY - S/B/L: 11.-1-41.12

Jacob Billig, Esq. and Al Chase, L.S., Galligan Land Surveying

Chairman McClernon read the public notice.

Mailings were submitted to the secretary.

Mr. Billig advised that the property has been in business for over 30 years. The prior owner operated the same business out of the property. In 1998, use variance was issued by this Board. There was some restrictions in terms of cleanup made by the Board at that time. The variance was limited to the repair of antique vehicles. The applicant was under the impression when he bought the property that it was for repair of all vehicles, as that is how it was being used at the time he bought it. The applicant received violations last year and have been working with the Building Department, Town Engineer and Town Attorney to clean these issues up. The applicant appeared before the Planning Board who referred the applicant to this Board. The applicant understands that the number of cars to be stored on the site will be limited. All tires have been removed from the property. The car parts have been removed. The dumpster has been cleaned and repaired. These are all site plan issues to be addressed by the Planning Board, but the applicant has been moving in the direction the Planning Board wants him to and he immediately started work on the site after appearing before the Planning Board. Mr. Chase advised that the parking over the septic area and handicapped parking and restroom access was suggested by the Planning Board and will be addressed there. Attorney Paula Kay advised that this Board wants to feel comfortable in knowing the applicant will address these issues before they grant a use variance. Mr. Billig acknowledged that the Town wants the site regulated and kept clean and the applicant will work with the Town. Mr. Billig further advised that enforcement will be taken care of after approvals are issued with the Building Department. Mr. Billig advised that the Town is vigilant in its enforcement of these issues. Mr. Billig advised that the applicants have submitted extensive paperwork and verily believes his client did not create the hardship. Many of the permitted uses in the zone do not work for this property. Mr. Billig believes his client has met the burden to show hardship.

Town of Thompson ZBA
November 10, 2015

Richard Benson asked about the number of cars and whether salvage cars will be included in that number. Mr. Billig said salvage cars will not be permitted to be counted in the number of cars permitted on the property. Mr. Billig advised that his client knows what the Town's intentions are.

Mr. Billig did disclose that there is litigation with one neighbor and that he understands they do have a right to complain. Without going into details, they are trying to resolve that issue.

Pamela Zaitchick asked how the Town will determine the number of cars. Attorney Paula Kay advised that the Town Engineer will use a calculation based on square footage. The applicant will probably want a number larger and the Town will negotiate that number with the applicant. Mr. Billig provided a color-coded site plan which reflects the cars presently stored on the site. Attorney Paula Kay also advised that the Board will want the cars condensed and contained in a more orderly fashion. Screening will also be addressed. The Board all felt that was a good idea. Pamela Zaitchick noted that she want screening that hides the site. Attorney Paula Kay advised that most of this cannot be seen from the road and Mr. Billig advised that he will address any visibility issues with any neighbor who has an issue with visibility.

Brian Soller suggested not surrounding the building with vehicles which may prohibit emergency access to the building. Mr. Billig felt that was a good point.

PUBLIC COMMENT

Charles Jones, neighbor. Mr. Jones complained that the applicant nailed a fence to his trees. There are hundreds of cars, junk, tires on the site. He does not believe a permit was issued to install the fence. He can see the cars and garbage, which is all over the place. The road leading to the site is not taken care of. There is junk and garbage all over the place. The fence is terrible and the site is a mess. Mr. Jones advised that his house is right in front of this site. Hoods are left open, cars are all over the site. He wants the applicant to keep it clean. Mr. Jones complained that the fence is constructed with 2x4 boards and bungee cords. The property is just a mess. Joe DeJesus asked what kind of junk is on the property. Mr. Jones said hoods are left open, oil is dripping all over the place and his well is near the property. Mr. Jones says his view is obstructed by a shabbily built fence and he does not want to live like that. Pamela Zaitchick asked how long Mr. Jones has lived on the property and he advised since 2005. Mr. Jones really wants the Town to regulate the number of cars on the site and have Mr. Kasiotis clean up the site. Mr. Jones previously owned the property and ran a similar business on the property. He sold it to Mr. Kasiotis.

Mr. Billig advised that the applicant will go point-by-point with the Planning Board and Building Department to address all issues raised tonight as well as the other issues previously raised. He will ensure that the finished project is one that the Town and his client will be satisfied on. Mr. Billig advised that the DEC was recently called and they attended at the site. The DEC found no oil spillage on the property. This was the first time that he has heard about the road and the fence. Chairman McClernon advised that the road is really in bad shape and a photograph was provided. Attorney Paula Kay asked if the road was shared and it was noted it is shared by three

Town of Thompson ZBA
November 10, 2015

parties. Attorney Paula Kay wants to see if there is a road sharing agreement in place and Mr. Billig will look to see if one is, he was not sure. Attorney Paula Kay suggested that a quick title search be done to ensure.

Pamela Zaitchick asked if there would be any fines imposed and Attorney Paula Kay advised that the imposition of fines will be up the Court.

Mr. Billig advised that although his client did not agree with every issue raised, he has addressed many of those issues to satisfy the Town. Mr. Billig advised that his client has spent a lot of money to address these issues and he hopes that the Town will reduce the fine accordingly. Attorney Paula Kay advised that fines are up to the Court and it may depend on how quickly the applicant addresses all of the issues, etc.

Mr. Billig advised that there are no vehicles by the well. There are no cars being stored there. Brian Soller noted that if the DEC has not issued any problem with the oil spillage, we should leave that determination up to the DEC.

The issue of whether the County needed to issue its review under §239 of the GML was raised. After review, it was determined that it was not necessary.

Robert Hoose asked how long it will take the applicant to address the issues. Mr. Billig advised that he would like a work session with the Town first so they can move as soon as possible and hopefully by the next Planning Board meeting. If winter weather inhibits that, they will come up with a checklist of items to be addressed and when.

Lou Kiefer, neighbor. He supports the applicant and has nothing against him, but the fence is a disaster. Also there are too many vehicles on the site. It looks like a junk yard and needs to be cleaned up. Mr. Kiefer advised that the road is handled by a right-of-way. As far as maintenance, it is up to the applicant and Mr. Jones. The third person who would use the road, Mr. Kiefer's brother, does not use it. Really, the main user of the road is the applicant.

The Board determined to go through the criteria necessary for a use variance.

Can the applicant demonstrate to the Board that they cannot realize a reasonable return - substantial as shown by competent financial evidence? Is there another use that is financially feasible to the applicant? All voted no.

Can the applicant demonstrate that the alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood? All voted the hardship is unique.

Can the applicant demonstrate that the requested variance will not alter the essential character of the neighborhood? All voted no.

Can the applicant demonstrate that the alleged hardship has not been self-created? All voted yes.

A motion for a negative declaration under SEQRA was made by Robert Hoose and seconded by

Town of Thompson ZBA
November 10, 2015

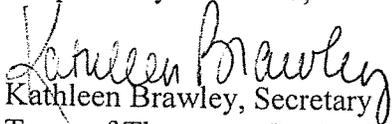
Richard Benson.
5 in favor; 0 opposed

A motion to approve the use variance as requested was made by Brian Soller and seconded by Richard Benson
5 in favor; 0 opposed

The Board wants to issue a note to the Planning Board to ensure that all issues raised tonight including repairing the fence, maintaining the road, cleaning of debris, better screening, ensuring emergency vehicle access, limiting the number of vehicles stored and how they are stored on the property are addressed by the applicant.

A motion to adjourn the meeting at 7:39 p.m. was made by Robert Hoose and seconded by Pamela Zaitchick.
5 in favor; 0 opposed

Respectfully submitted,


Kathleen Brawley, Secretary

Town of Thompson Zoning Board of Appeals