

**APPROVED**

**TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
Tuesday, September 13, 2016**

**IN ATTENDANCE:**

Chairperson Richard McClernon, Robert Hoose, Richard Benson, Pamela Zaitchick, Jose DeJesus, Alternate, James Carnell, Director of Building/Planning/Zoning, Paula Elaine Kay, Esq., and Kathleen Brawley, Secretary

Absent: Brian Soller and Jay Mendels (alternate)

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

A motion to accept the August 9, 2016 meeting minutes was made by Robert Hoose and seconded by Richard Benson.

4 in favor, 0 opposed

**NYSEG**

**Property is located in the HC-2 Zone at 21 Katrina Falls Road,  
Rock Hill, NY; S/B/L: 51.-2-41.2  
Josh Silver, Esq.**

Satisfactory proof of mailing was previously provided to the Board.

Mr. Silver advised that at last month's hearing he proposed the construction of a 100' monopole. When the application was submitted, the pole was located in a different location. Although the Board had suggested a collapsible pole, NYSEG does not want to build the same. Due to the size of the pole, due to an engineering perspective, it is not advantageous to build a collapsible tower.

Attorney Paula Kay asked if Mr. Silver has any incidents of poles collapsing and Mr. Silver advised that in the past seven years, he has not seen any. Chairman McClernon asked if the pole fell on the substation and Mr. Silver advised that would be problematic. Mr. Silver advised that the property conditions prevent him from moving the pole to a different location on the site. There is also a grade that would prohibit the construction of a pole. Chairman McClernon felt that NYSEG was filling in areas around the substation which may be beneficial to building a pole in a different location. Mr. Silver advised that the applicant did consider the entire lot before applying for this variance. Chairman McClernon advised that this pole is not for electrical service, but for communication between the towers and Mr. Silver confirmed that, but advised it is integral to getting interrupted service repaired quickly. Pamela Zaitchick asked about utilizing the tower for additional cellular service and Mr. Silver advised that it is just not economically feasible for companies like Verizon to have engineers specifically for projects like this.

Bob Hoose and Joe DeJesus asked if the pole would have wires to hold it in place and Mr. Silver

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advised it would not. Mr. DeJesus advised that he recently installed one in New York City and they used wires and went wider on the base to ensure safety. Mr. Silver advised that the pole is designed by an engineer. Pamela Zaitchick asked where the nearest monopole was in the area. Mr. Silver was not sure. They did not perform a tower inventory because they have to work within the substation. Mr. Silver did see a 250' pole on the way from Kingston on Route 209. Attorney Paula Kay asked the Board if they would feel more comfortable having the Town Engineer looking at this before they make a decision. Mr. Silver advised that the type of an event that would make this pole fall is great, and no one is really ever going to be in the immediate vicinity. The Board felt that the Town Engineer should look into this. Pamela Zaitchick advised that they should also look into cellular service on the pole, which Mr. Silver advised his client would be amenable to exploring if it was a condition of the approvals. Chairman McClernon asked about the provided specs of the tower for wind speed, etc., and Mr. Silver advised that they are set with the worst-case scenarios which exceed the current New York State Building Code by another level. Richard Benson advised that he does like the relocated pole as provided by the applicant.

Attorney Paula Kay asked Mr. Silver to provide the Town Engineer with their engineer's information in case he has any questions.

Mr. Silver acknowledged that an engineer would be more equipped to answer the technical questions than he is.

There was no public comment.

A motion to hold this hearing open until the October 11, 2016 meeting was made by Pamela Zaitchick and seconded by Richard Benson.

4 in favor; 0 opposed

A motion to change the order of the agenda to have Saladino first, then Makovic and then American Collectors, was made by Pamela Zaitchick and seconded by Richard Benson.

4 in favor; 0 opposed

**FRANCIS SALADINO AND JENNIFER SALADINO**  
**Property is located in the RR-1 Zone at 16 First Rd, Rock Hill, NY; S/B/L: 36.-8-4**

Chairman McClernon read the public notice: Applicants are requesting an area variance from §250-21(B)(4) of the Town of Thompson Zoning Code for the purpose of increasing a non-conforming structure from one story to two stories.

Satisfactory proof of mailing was provided to the Board.

Mr. Saladino advised that they are not expanding the home, but putting two bedrooms upstairs. They are not adding bedrooms. Attorney Paula Kay asked the applicants to confirm that the setbacks are remaining the same as they exist and Mr. Saladino confirmed that was the case. Mr. Saladino advised that the Building Department does have plans and they are working with the

Building Department.

Mr. Saladino provided five letters from neighbors consenting to the application. Bert Wooley of the Wanaksink Lake Homeowners Assn. advised that they have no objection to this application.

The Board had no further questions.

There was no other public comment.

**AREA VARIANCE CRITERIA:**

- (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 will a detriment to nearby properties 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 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 conditioned upon receipt of the letter of consent from Wanaksink Lake Homeowners Assn. and so long as the setbacks remain the same, was made by Richard Benson and seconded by Pamela Zaitchick  
4 in favor; 0 opposed

**AGATA BACA & MIROSLAW BACA**

**Property is located in the RR-2 Zone at 16 Gregory Road, Monticello, NY; S/B/L: 56A.-2-6**

Satisfactory proof of mailing was previously provided to the Board.

Mrs. Baca provided the Board with an updated site plan. All of the corrections requested by the Board are noted on the map. The new map shows a revised deck that runs along the house, which the Board felt was better than what was previously presented.

The Board asked if the map notes that there will be no bedrooms over the garage and Mrs. Baca confirmed it was. Attorney Paula Kay reviewed the map and advised there is no note on the map and it must be amended to reflect the same. The Board will approve the application subject to their receipt of the same. After review, Joe DeJesus noted that it is noted on the site plan and Attorney Paula Kay confirmed it was.

There was no public comment.

**AREA VARIANCE CRITERIA:**

- (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.

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- (2) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties 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 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 Pamela Zaitchick  
4 in favor; 0 opposed

### **MAKOVIC HOMES**

**Property is located in the HC-2 Zone at Old Route 17/Cimarron Rd, Monticello, NY**

**S/B/L: 31.-1-67**

Glenn Smith, P.E. and John Makovic

Chairman McClernon read the public notice: Applicant is requesting area variances from §250-11 of the Town of Thompson Zoning Code for the following purposes: 1) permitting a decrease in the minimum lot area from the required 3 acres to 1.97 acres; and 2) permitting a decrease in the minimum lot width from the required 150 feet to 145 feet.

Satisfactory proof of mailing was provided to the Board.

Mr. Smith advised that the applicant was before the Board in 2004. The Zoning Board provided him with a variance at that time. Since then, the NYS DOT took some land which reduced the property to 1.97 acres. The lot width is also five feet deficient. The proposed use of the property is to put an office and six model homes (with no water or sewer). This mirrors the application previously approved in 2004. There will be a septic system installed for the office only. There will also be a parking area. Mr. Smith acknowledged receipt of the County's review under GML §239 and has noted the same. Attorney Paula Kay read a portion of the Planning Board minutes wherein the Planning Board referred this matter to the Zoning Board of Appeals and consented to the same, since the variances were not due to the applicant's fault. Chairman McClernon asked if they could reduce the number of homes on the lot and Mr. Makovic advised that he actually wanted more, but was recommended by his Engineer to keep the amount the same as was previously approved. Mr. Makovic advised that they will be moving homes in and out as they are sold, etc. Chairman McClernon expressed concern about having an ugly lot so close to the entrance of the casino. Mr. Makovic advised that they will have set places for set size homes. His other property was constructed 15 years ago and he has learned a lot since then. Mr. Smith advised that the Town Engineer advised in his comments to have the applicant keep as many trees as possible on the site. In addition, the Planning Board will want more landscaping. The applicant has made great efforts to keep as many trees as possible. Pamela Zaitchick asked how they plan on moving homes in and out and Mr. Makovic advised they will be lifted. He is leaving his 17B location, but moving his office to this location. Mr. Makovic plans on having different style homes at his various locations and this will be a location for custom homes. Pamela Zaitchick asked if any of these homes would

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be eventually permanent and Mr. Makovic advised they would not be and they will also not be on permanent foundations. Richard Benson asked if the office would be

Kevin McCague, neighbor. Mr. McCague wants to see photos of the site and is in close proximity to the site in question. He wants to give his family and the other neighbors an opportunity to see the proposed site. There are more houses in the proposed site than on the entire road. Mr. McCague is concerned about the increase in traffic. The State did not advise them of the reduction of the berm, which he understands is not this Board's concern, but wants to ensure that everyone has an opportunity to review this application.

Chairman McClernon confirmed with Attorney Paula Kay that this matter will go before the Planning Board which will hold another public hearing before this would be approved. Attorney Paula Kay advised that just because this is what the applicant has proposed, it is not necessarily which will be approved. Mr. Makovic also advised that he would be happy to provide neighbors with maps of what the lot will look like. Mr. McCague asked if this zone change will change the entire zoning for the neighborhood and Attorney Paula Kay advised that it does not. She also confirmed with Mr. McCague that the applicant has previously received variances, but let them lapse. Mr. McCague also confirmed that the State took land from the applicant. Mr. Makovic advised that this is the same plan, but the

Mrs. Fortier, neighbor. Mrs. Fortier advised that if the Town has requirements, what is the point of having them if they aren't going to stick to them. Pamela Zaitchick advised that this variance is not due to the applicant, but due to the DOT taking his property. Nothing is being built differently. Mrs. Fortier wants to know if the applicant can reduce the size of the project and Attorney Paula Kay advised that this is really a Planning Board issue. Chairman McClernon advised that there will be a public hearing held with the Planning Board as well.

Alice Kelly, neighbor. Mrs. Kelly wants to know about the road size, as she believes the homes need to be brought in on big trucks and the road is very narrow. Just recently a large truck was in the neighborhood and backed up traffic for quite a bit. Mr. Makovic advised that the truck will be there for 10-15 minutes for a two-part home and the homes will be on the site for ten years. Mrs. Kelly asked what would happen if he lost the business and Mr. Makovic advised that the bank would take them to liquidate. Mrs. Kelly was concerned about what would happen if another business were to come in and Mr. Makovic advised that any other business would have more traffic and activity.

Attorney Paula Kay read the other possible uses in the zone, including a car wash, hunting and fishing cabins, theaters, eating/drinking establishments, mobile home parks and sales.

Mr. Smith advised that when zoning was enacted by the Town, a lot of lots became non-conforming even though they had been around for hundreds of years. That is the case in this application.

Joe DeJesus asked if Mr. Makovic took cranes into consideration when he set up this plan and left

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trees, etc. Mr. Makovic advised that there are at least two locations where a crane can be placed. There was no further public comment.

**AREA VARIANCE CRITERIA:**

- (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 will a detriment to nearby properties be created by the granting of the area variance? 2 voted no, 2 voted yes. Pamela Zaitchick felt that the neighborhood does not have anything like that in the neighborhood now. Chairman McClernon felt that there are too many homes on the site. Richard Benson and Robert Hoose felt that it is Highway Commercial and permitted. The applicant advised that the Bank set the number of homes he can display.
- (3) Is the requested area variance substantial? 2 voted no. Robert Hoose felt this was not caused by the applicant. It is business and commercial. 2 voted yes. Chairman McClernon felt that the number of homes and the size of the lot makes it substantial and Pamela Zaitchick agreed.
- (4) Will the proposed variance 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 no.

A motion for negative declaration motion under SEQRA 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 Pamela Zaitchick and seconded by Richard Benson  
4 in favor; 0 opposed

Chairman McClernon wanted to note that the Board is unanimous because of the loss of a portion of the property was taken by the DOT and through no fault of the applicant. Chairman McClernon urged the members of the audience to attend the public hearing with the Planning Board and advised that Mr. Makovic advised that he would provide the public with any information requested.

**AMERICAN COLLECTOR'S & EXOTIC AUTO BROKERS LLC**  
**Property is located in the HC-2 Zone at Old Route 17/Cimarron Rd, Monticello, NY**  
**S/B/L: 31.-1-62.4 and 31.-1-93**  
Glenn Smith, P.E. and John Makovic

Chairman McClernon read the public notice: Applicant is requesting area variances from §250-11 of the Town of Thompson Zoning Code for the following purposes: 1) permitting a decrease in the minimum lot area from the required 40,000 square feet to 17,860 square feet; 2) permitting a decrease in the minimum lot width from the required 150 feet to 95 feet; and 3) permitting a reduced combined side yard setback from the required 70 feet to 45 feet.

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Satisfactory proof of mailing was provided to the Board.

Mr. Smith advised that these two lots are in the HC zone and explained the variances. The applicant wants to construct a storage building on the site and pushed it towards the DOT exit which moves it farther away from neighbors. It will not have water or sewer. Again the County has issued its review under GML §239 and recommended local determination and also stressed that it was near the entrance of the casino.

Attorney Paula Kay advised that the Planning Board did refer this matter to the Zoning Board but that they did not give a recommendation. Attorney Paula Kay read the portion of the July 2016 meeting minutes relating to this application. Mr. Smith advised the proposed building is 50x100'. The site is entirely wooded and additional landscaping will be installed. Robert Hoose felt that the variances requested were too great, as did Pamela Zaitchick.

Mr. Makovic advised that the building will be storage for collector cars. Most of the business is done online. He obtains the vehicles and stores them until they are sold and shipped out. With these vehicles, they can be large (like older fire trucks which are highly collectible) and he may need the size to store the same. Joe DeJesus asked if mechanical things would be done on the site and Mr. Makovic advised it would not be done on the site.

Attorney Paula Kay advised that the County referred this matter for local determination but that they discussed enhanced landscaping and drainage. Mr. Smith advised that the County also recommended talking to the State DOT about planting in their right of way. The County also once again re-iterated that the location of this project is at the entrance to the casino.

Kevin McCague asked about the purpose of the right of way. Mr. Smith advised it was a 20 foot strip for a driveway. Mr. McCague thought it may be a road which might abut his property. Mr. Makovic advised that it may be possible that Mr. McCague is traveling on his property to access his own home. Mr. Smith advised that it may be a utility easement and Attorney Paula Kay advised that without reading the easement, there is no way to determine what it is for. Mr. McCague advised that he is concerned about putting a road alongside his home. His front door to the road is only 20 feet from his home. Robert Hoose felt that they needed to find out if the right of way was for public use. Attorney Paula Kay asked if it was the access to his home and Mr. McCague advised it was. Attorney Paula Kay advised she is going to need to review the deeds to the properties in question. Mr. Smith advised that Mr. McCague's fence may very well be on the applicant's property.

Mrs. Fortier, neighbor. She is concerned because with the casino coming in, they really want to save a little of their neighborhood character. The casino is taking down trees, etc. They do understand that they bought property in a highway commercial zone. Chairman McClernon advised that hopefully the casino will work with the neighbors.

Robert Hoose asked how many cars would be leaving the property regularly and Mr. Makovic advised that maybe one or two a week and employees will not be coming in and out of the property

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regularly. Mr. McCague felt that a building may help with the road noise. He is concerned about security with a building holding such valuable items. Mr. Makovic advised that he will be installing security cameras, etc.

A motion to hold the public hearing open to the October 11, 2016 meeting was made by Robert Hoose and seconded by Richard Benson  
4 in favor; 0 opposed

**MARY NORDEN**

**Property is located in the SR Zone at 161 Anawana Lake Rd, Monticello, NY  
S/B/L: 13.-1-9**

Chairman McClernon read the public notice: Applicant is requesting a use variance from §250-7 and §250-50 of the Town of Thompson Zoning Code to permit the operation of a petting zoo.

Satisfactory proof of mailing was provided to the Board.

Mrs. Norden advised that she has lived on the farm for forty years. Her husband was a horse dealer and bred thoroughbreds. It has always been a working horse farm. The petting zoo has been run since 2006. She had signs and a website. She had no trouble until someone complained because she was not in a commercial zone. She spoke to the then Town Supervisor who told her to leave it as is. Attorney Paula Kay asked when the petting zoo is run and Mrs. Norden advised only July and August this year. Attorney Paula Kay advised that Mrs. Norden needs to provide the Board with criteria to prove her use variance. Attorney Paula Kay also feels that the County Planning Department may be correct in suggesting a law to set regulations, etc., and help do this right. There is no rush, as she is not opening until next summer. Mrs. Norden advised that she is physically unable to do anything else. There are only farm animals on the property.

The Chairman suggested providing Mrs. Norden with the use variance criteria that she needs to meet. Attorney Paula Kay advised that the Town will also review the Code.

Jim Carnell advised that he would reach out to NYS Ags and Markets to see if there are any regulations.

**Public comment:**

Alex Sienitsky, neighbor. Mr. Sienitsky feels it is an asset to the neighborhood and although the traffic is bad on Anawana Lake Road, it is not caused by the petting zoo. In addition, the petting zoo does not detract from the neighborhood.

Roy Scandura, neighbor. Mr. Scandura advised that he feels that this petting zoo is not a detriment to the neighborhood and he agrees with Mr. Sienitsky.

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A motion to hold the public hearing open to the October 11, 2016 meeting was made by Richard Benson and seconded by Pamela Zaitchick  
4 in favor; 0 opposed

**NEAL LUBIC AND ISNIJA GASHI (SOLAIA RESTAURANT)**  
**Property is located in the RR-2 Zone at 3317 NYS Route 42, Monticello, NY; S/B/L: 59.-1-45**

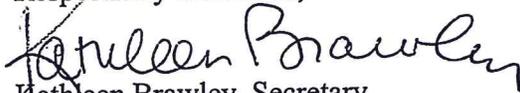
Chairman McClernon read the public notice: Applicants are requesting area variances from §250-9 of the Town of Thompson Zoning Code for the following purposes: 1) permitting an increase in signs identifying the permitted use from one sign to two signs; and 2) permitting an increased sign size from the required 20 square feet to 126 square feet.

The applicants did not appear nor provide the Board with sufficient proof of mailing and therefore, the matter was not heard.

There was no public comment.

A motion to adjourn the meeting at 8:00 p.m. was made by Pamela Zaitchick and seconded by Richard Benson.  
4 in favor; 0 opposed

Respectfully submitted,



Kathleen Brawley, Secretary  
Town of Thompson Zoning Board of Appeals

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