

**APPROVED**



TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
Tuesday, February 13, 2018

IN ATTENDANCE:      Chairman Richard McClernon                      Richard Benson  
                                 Paula Elaine Kay, Attorney                      Danielle Jose-Decker, Alternate  
                                 Ryan Schock    Ian Constable, Alternate  
                                 James Carnell, Director of Building/Planning/Zoning  
                                 Debbie Mitchell, Secretary

Absent from the meeting are Jay Mendels and Robert Hoose.

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

A motion to approve the January 9, 2018 minutes was made by Richard Benson and seconded by Ryan Schock  
3 in favor, 0 opposed

Chairman Richard McClernon appointed Danielle Jose-Decker to replace Robert Hoose and Ian Constable to replace Jay Mendels.

**Appeal by: Continental Cottages Unit 4K**

Property is located at 381 Fraser Road, Monticello, NY: S/B/L: 10.-4-2 in the SR zone with central water/sewer  
Joel Kohn, Applicant

Applicant is requesting area variances from §250-21D and §250-21D(2) of the Town of Thompson Zoning Code for the following purpose: 1) lot coverage from required 10% to proposed 21.23% and 2) increase floor area from required 200 sq. ft. to proposed 359 sq. ft.

Mr. Kohn - This project is located on Fraser Road and is located in the SR zone which is a non-conforming use for a bungalow colony. The can only add 15% or 200 square feet whichever is greater when approved by the Planning Board. The owner added an addition of 359 feet in total without approval. The Building Department took Continental Cottages to court. They were instructed to follow the procedure and go to the Planning and Zoning Board. We were denied by the Planning Board and sent to the Zoning Board. There are two variances, one is the 15% or 200 square feet to proposed 359 square feet and the other is for the lot coverage. The current lot coverage is 21% and we are proposing 21.23%.

Chairman Richard McClernon – Were people using this addition this past summer? Mr. Kohn – Yes

Paula Kay – The reason we are all here tonight is because these additions were built without building permits and the Building Department caught them and gave them a stop work order. They continued to work and we took them to court. Richard Baum is representing Continental Cottages. Mr. Baum told the court that he would bring them to the Planning Board to get everything straighten out. Which he did.

The Planning Board took a look and saw that there needs to be variances so they sent this to the Zoning Board of Appeals. These additions have been built. The Building Department has not done any inspections yet.

Chairman Richard McClernon – There was a complete neglect in regards with rules and regulations by the owner, since they continued to build after the stop work order. Plus, according to the Building Department there are other work orders that have not been closed out yet.

Mr. Kohn - Show the Board pictures of the addition that has been built.

Richard Benson – Do you have prior picture too? Mr. Kohn – No.

Danielle Jose-Decker – Was this a 2 bedroom and now it's a 4 bedroom, or a 4 bedroom and now a 6 bedroom? Mr. Kohn – It was a 2 bedroom and is now a 4-bedroom unit.

Chairman Richard McClernon -This is not the first time they have built without permits! Paula Kay – Not necessarily with this building but within the Colony.

Danielle Jose-Decker – I'm not as concern about the lot coverage but about the floor area increase.

Chairman Richard McClernon – It's a quarter percent over but 35% greater. They did build a lot of decks and ok'd them. Just to clean up everything that was built as far as decks.

Mr. Kohn - They can build up to 200 square feet with proper permits, 359 is more than that. It's not like it's a big mansion. It's only 1,391 square feet total building with the deck.

Danielle Jose-Decker – It's really 175%.

Mr. Kohn – The total unit itself is 1,088 square feet. Chairman Richard McClernon – That doesn't count when your coming to lot sizes. What the town requires in regards to the town code.

Mr. Kohn – There is proper separation between each unit. I understand this was done without a permit but we are here looking for the Zoning Board to grant us our variances.

**PUBLIC COMMENT:**

No public comment

**PUBLIC COMMENT CLOSE:**

**AREA VARIANCE CRITERIA:**

(1) Whether benefit can be achieved by other means feasible to applicant; Ian Constable Voted No.

Danielle Jose-Decker – I'm not sure, since the goal was to add a couple bedrooms. They could have done it in a different way? Chairman Richard McClernon – They could have done a second story. Danielle Jose-Decker – Or gotten a building permit for another unit. Chairman Richard McClernon – Or kept it inside the 200 square feet.

Danielle Jose-Decker, Chairman Richard McClernon, Richard Benson and Ryan Schock all voted Yes

(2) Undesirable change in neighborhood character or to nearby properties; All voted no

(3) Whether request is substantial; All voted yes. Danielle Jose-Decker – Yes with respect with the floor square footage, not so much with the lot coverage.

(4) Whether request will have adverse physical or environmental effects; All voted no

(5) Whether alleged difficulty is self-created; All voted yes

A motion for a negative declaration was made by Danielle Jose-Decker and seconded by Richard Benson  
5 in favor; 0 opposed

A motion to disapprove variances one and two was made by Ian Constable and seconded by Ryan  
Schock  
5 in favor; 0 opposed

**Appeal by: 4020 State Route 42 Realty, LLC**

Property is located at 4370 State Route 42, Monticello, NY S/B/L: 13.-3-39 in the HC-2 zone with central water/sewer.

Vincent Luongo, Bertin Engineering

Applicant is requesting area variances from §250-11 and §250-21(B)(4) of the Town of Thompson Zoning Code for the following purpose: 1) increasing a non-conforming structure to proposed 150 sq. ft. additional on north façade of building 2) large canopy front yard setbacks from required 50' to proposed 10.1'. 3) small canopy front yard setback from required 50' to proposed 27.3' and 4) small canopy rear yard setback from required 50' to proposed 15.9'.

Ian Constable recused himself from participating in this application.

Paula Kay – With no fault to the applicant, the legal notice given to the applicant for the mailing was not sufficient. We will open it to the public, but we are going to have to re-notice for next month to make sure it's done properly.

Proof of mailing was provided to the Board.

Mr. Luongo – There are two fronts, one on Golden Ridge and the other on Route 42. The 50-foot setback is on the front and both sides. And in the rear, there is 50-foot setback. Everything on the site is non-conforming. The applicant is planning to renovate the building. Currently there is one bathroom and is inside the building. This 150 square foot addition is for 2 bathrooms. Right now, the existing canopy holds 2 dispenser islands. The existing canopy is 1,500 square feet that's 47 x 32 feet. The building is 1,500 square feet. We have designed it to make it work for the pedestrians since parking is all over the place right now and to also do some landscaping. The proposed canopy is 2,000 square feet and because NY DOT keeps taking property the property lines are a little skewed. The proposed will have a drive through lane in the back for trucks. The tanks are on the same side as the existing tanks and the parking is on the left side of the site per the Planning Boards request. We have a lot of landscaping around the building and will have a wall in the back. I have talked to Shop Rite's real estate agent for a



temporary easement to build the wall. We will remove all the trees and then Shop Rite will replace the trees. We added a canopy for diesel only with a high-speed dispenser and a three plus one dispenser. We will have 5 in the front giving us 4 Gas pumps and 1 Diesel pump. The site was designed so the tractor trailers will be able to go around the back. NY DOT said we need to maintain a 75-foot separation from tangent to tangent, from our exit driveway to the entrance of Shop Rite. The setback for the front small canopy went from 27.3 to 25.7 and the rear canopy went from 15.9 to 18.9. The Dot said we can tie into their drainage system. These are all the new numbers because NYS DOT required them. Danielle Jose-Decker – Where would the tractor trailers go through after they fill up? Mr. Luongo shows Danielle Jose-Decker on the map how the tractor trailers will go through the property.

Sukru Ahkaya, owner is here with his cousins.

Mr. Luongo – The design is taking into effect for snow storage, easy access to the building, handicapped parking, lots of landscaping and a fenced in storage for garbage. Paula Kay – The applicant has done everything the Planning Board and Town Engineer has asked for.

Chairman Richard McClernon – The 25.7 was changed to 27.3? Mr. Luongo – Yes, because NY DOT requested these changes for the 75-foot tangent to tangent. The original tangent was 55 feet and the NY DOT had made us change it. Ryan Schock – You just shifted everything?

Mr. Luongo – I just moved it 4 feet. Basically, what I did was take the straight line and just off set it by 4 feet.

#### PUBLIC COMMENT:

Michael Davidoff from Drew, Davidoff and Edwards. I'm here to represent Aero Star. We are not here to stifle competition. We are here to point out that what they want to do is put in a large operation to increase a non-conforming use. If they want to beatify it that ok. The amount of increase they want to do on this small lot should not be allowed. When Aero Star did their renovation, they couldn't go any closer to Route 42. These are major variances, one is with an addition of 150 square feet, the large canopy require setback is 50 feet and it will be 10.1 feet. The small canopy setback requirement is 50 feet and it will be 27.3. Also, the small canopy in the rear required setback is 50 feet and it will be 15.9 feet. These variances are not necessary. They can continue their operation and not have to increase the size. This increase is not going to help the look of the area. We are happy they are doing improvements but not to make it larger on a small piece of property.

Sukru Akkaya, owner – I bought this property 10 month ago. I'm going to improve the property. These people call me about me prices dropping. They say I was giving the gas away for free. I have recorded phone calls. We are in competition for the public. I don't understand what he is saying.

Mr. Luongo – We have been designing gas stations for over 25 years, this is what our main business is. Setbacks in our opinion are created for view and space. These canopies are 13 ½ feet up in the air. The view is not at all compromised. Yes, the property is gotten smaller because the DOT keeps taking property away. The NY DOT is also looking to do more improvements on Route 42. Setbacks are primarily for view and space. Everything on this space is non-conforming.

Paula Kay – We will get you the new notices for next month so you can get them sent out.

Richard Benson – The existing canopy is how far back from the street?

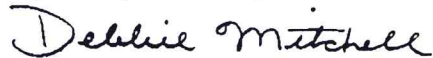
Mr. Luongo - Eighteen feet off of the property line. This canopy almost over hanged on the existing building. The building will have a peak roof and the canopy will match it. With the way the canopies are angled it will be better for traffic. The new curve line is almost at the same spot as the existing curve line. Chairman Richard McClernon- The previous owner had an approval for the 150 square foot bathroom? Mr. Luongo – Yes.

Paula Kay - We will make sure that the Board has prior variances before the next meeting.

A motion to close the meeting at 7:36 pm was made by Danielle Jose-Decker and seconded by Ryan Schock

5 In favor; 0 opposed

Respectfully submitted,

A handwritten signature in cursive script that reads "Debbie Mitchell".

Debbie Mitchell  
Secretary  
Town of Thompson Zoning Board of Appeals