

**Town of North Salem
BOARD of APPEALS
Public Hearing
March 11, 2010
8 p.m., The Annex**

MEMBERS PRESENT: Brian Ivanhoe, Chairman
Deidre Sokol
William Monti

MEMBER ABSENT: Patrick Browne

OTHERS PRESENT: Gerald Reilly, Counsel
Bruce Thompson, Zoning Enforcement Officer
Janice Will, Recording Secretary
Members of the Public

Chairman Ivanhoe called the March 11, 2010 Town of North Salem Zoning Board of Appeals meeting to order.

Chairman Ivanhoe set the next meeting for Thursday, April 8, 2010.

The minutes of the February 18, 2010 meeting were unanimously accepted.

The Chairman announced that, as only 3 Members were present, a unanimous decision would be required for any application to be approved. Any parties who would rather have their applications heard by a full Board would have the right to postpone their appearance until the next Board meeting at no additional cost to them.

HEARINGS CONTINUED

BA09-32 Joseph Bryson (2 Fields Lane) – **Use Variance** – To permit the use of an existing building for a sales and service business, per Article IV Section 250-11 and the Table of General Use Requirements for the R-1/2 zoning district.

Carried over pending progress of Planning Board application.

BA09-33 Fuelco Food Marts, Inc. (2 Fields Lane) – **Area Variance** – For the operation of a gasoline station and convenience store per Article V Section 250-15, Article VI Section 250-22 (C), Article IX, Article XIII Section 250-73 (B) and (C), the following variances are requested:

- Decrease the front yard setback from 35 ft. required to 12 ft. proposed for placement of a fuel pump island with canopy.

- Decrease the distance from an intersection from 100 ft. required to 49 ft. proposed for modification of an entranceway.
- Increase the maximum height of a fence in a front and side yard from 4 ft. permitted in the front yard/5 ft. permitted in the side yard to 6.5 ft. existing/proposed for replacement of a fence.
- Increase the maximum size of a free-standing sign from 8 sq. ft. permitted to 33 sq. ft. existing/proposed.

Carried over pending progress of Planning Board application.

BA09-34 Fuelco Food Marts (2 Fields Lane) – **Interpretation/Use Variance** - Whereas the Building Inspector determined that the addition of a convenience store to the existing non-conforming gasoline service station requires a use variance, application is made to the Board of Appeals to find that the convenience store is permitted as an accessory use; or in the alternative, request a use variance per Article IV Section 250-11 and the Table of General Use Requirements for the R-1/2 zoning district if the ZBA's interpretation of the circumstances is the same as the Building Inspector's.

Carried over pending progress of Planning Board application.

BA10-13 LP Partners (125-143 Vail Lane) – **Area Variance**- For a variance per Article V Section 250-15 and -18 and per New York Town Law Section 280-a in order to permit creation of a subdivision lot. A decrease in the required street footage from 150 ft. to 0 and permission for the lot to access a street not shown on the Official Map for the Town (Chestnut Hill Road, Ridgefield, CT) are requested.

Carried over pending progress of Planning Board application.

PUBLIC HEARINGS

BA10-07 Paige and Alfred DeLeo (153 Vail Lane) – **Area Variance** – To decrease the minimum setback requirement in an R-4 zoning district per Article V Section 250-15. A side yard setback variance of 18 ft. is requested (75 ft. required; 57 ft. proposed) for construction of an in-ground pool and installation of pool equipment.

Charles Gardner, landscape architect, displayed a site plan of the subject property. He explained that the need to avoid the septic area at the back of the property dictated the pool location, and the location of the equipment pad was chosen for its proximity to an existing gas tank where it will also be convenient for servicing. Mr. Gardner further stated that the equipment pad will sit down in front of an existing 3 ft.-high stone wall running along the driveway that will have fencing added to its top. The pool security fence in the area adjacent to the driveway is to be a 4 ft.-high solid picket type with lattice top. He pointed out an area further along the drive towards the back of the property where additional evergreen trees are to be planted. He said the rest of the pool security fence will be 4 ft. high with wood rails to match the paddock fencing and have steel mesh on the outside.

Mr. Gardner stated that the equipment will have very little visual impact. He said he and his client met with the next-door neighbor, Ken Markel, when Mr. Markel expressed concern about the proximity of the equipment pad to his property. Mr. Markel requested that additional trees be planted as a screen. Mr. Gardner commented that the pool will be pretty flat and scarcely visible.

Al DeLeo told the Board that he would have liked a free-form pool, but he will have a rectangular pool built instead so that it can have an automatic cover for safety reasons.

The Chairman expressed some confusion about what the setback will be, and Mr. Gardner explained that the pool will extend 10 ft into the setback, but the equipment pad will go 18 ft. over the required side yard line.

Deidre McGovern asked what size additional trees will be planted, and Mr. Gardner replied that they will be 10 to 12 ft. tall.

Mr. DeLeo stated that his neighbor's front door faces the street; but if he comes out and looks to the side a little, he could possibly see the pool equipment were it not for the wall. With the equipment pad possibly set lower than the wall bottom and the wall topped with a fence, the equipment pad will not be seen. He added that the reason he originally planned to have trees planted was merely to break up the appearance of the fence.

Chairman Ivanhoe asked if the top of the pool equipment will be lower than the top of the stone wall.

Mr. Gardner said it might be just a little bit above the wall, but the equipment hasn't been selected yet.

William Monti asked why the equipment pad couldn't be moved to an area diagonally across the pool from the proposed location.

Mr. Gardner explained that the equipment needs to be near the propane tank, and he wants to avoid the septic area as well. He added that the area indicated by Mr. Monti would be very visible from the house. Mr. Gardner said the proposed site for the equipment pad will also facilitate maintenance. He stated that new pool pumps are extremely quiet and only get a little bit louder when cleaning, which is usually done during the day.

The Chairman asked if the equipment will be taken down in the winter, and Mr. Gardner responded that it will be taken apart and put away.

Ken Markel of 175 Vail Lane addressed the Board, stating that the entrance to his house faces the side of the DeLeo property.

The Chairman stated that all the Board members made site inspections, and he said the Markel front door faces more toward the street than to the side.

Mr. Markel showed the Board a survey, indicating the entrance to his house. He said he would like trees planted farther along the driveway/essentially opposite the equipment pad and on a diagonal to his house to screen the area.

Mr. Gardner pointed to a high area on the site map, west and a little north of the equipment pad, where he said he had agreed to plant a couple of pine trees.

Mr. Markel said he thought 3 or 4 trees would be good, but Mr. Gardner said Mr. Markel had requested 2 at their meeting.

Chairman Ivanhoe commented that trees are typically planted in groups of 3.

Mr. DeLeo said he would be more than happy to plant 3 or 4 pine trees.

Mr. Markel said that was all he wanted.

Referring to the site plan, the Chairman asked Mr. Gardner to describe the lower plantings pictured on it.

Mr. Gardner said it includes viburnum and dogwoods that will get fairly thick.

Mr. DeLeo reiterated his willingness to plant 3 or 4 trees on the higher area to the side.

Chairman Ivanhoe commented that pine trees tend to grow tall but get bare at the bottom, so perhaps some of the other plants in the plan would be suitable.

Mr. DeLeo said the final landscaping done to make the pool area attractive will also contribute toward screening for Mr. Markel. He pointed out that nothing may be planted on top of the gas tank.

Mr. Markel stated that he only wants screening between his front door and the equipment pad.

The Chairman stated that a condition will be included in the Resolution that plantings shall be employed in the area to the west and north of the equipment pad, between Mr. Markel's front door and the pad.

Noting there were no further questions or comments, the Chairman closed the public hearing.

Motion by: William Monti
Seconded by: Deidre Sokol

Ms. Sokol: Aye
Mr. Monti: Aye
Chairman: Aye

Area variance granted, as requested, with specific condition per discussion and agreement.

BA10-14 Grace and Joel Osnoss (6 Silo Ridge Road) – **Area Variance** – To decrease the minimum setback requirement in an R-4 zoning district per Article V Section 250-15. A rear yard setback variance of 44 ft. is requested (100 ft. required; 52.83 ft. existing; 56.3 ft. proposed) for construction of a one-story kitchen addition and deck.

Michael Sirignano, attorney, represented the applicants. He stated that his clients wish to add an eating area at the back of their kitchen and a deck next to that with an arbor or pergola. He said the property is irregularly-shaped with frontage on 2 streets, and the Building Inspector determined that the area affected by the proposed construction has a rear yard setback requirement. Mr. Sirignano mentioned that in the past, a side yard setback variance was granted for the same property line. He said a variance was granted for a garage with a 52 ft. setback in 2004, and one was granted for a pool with a 30 ft. setback in 1988. The current variance application is only for a 56.3 ft. setback. Mr. Sirignano stated that the position of the house makes it impossible to add onto without a variance.

Chairman Ivanhoe commented that part of the existing kitchen is within the setback.

Mr. Sirignano said a large part of the house is within the setback. He added that no neighbors will be affected by the addition.

The Chairman agreed, saying that the area is heavily wooded.

Mr. Sirignano said his clients would like the variance so they may get a building permit for the kitchen addition, deck and arbor. He said another variance, for height of a fence, was also granted in the past.

Chairman Ivanhoe asked if any external lighting will be added.

Mr. Sirignano said he did not know, but perhaps lighting is planned for the deck.

The Chairman asked that any light fixtures employed not be visible at their source/light aimed downward or towards the house.

There were no further questions, and the Chairman closed the public hearing.

Mr. Reilly stated that the resolution will include a condition regarding lighting. Additionally, findings that the Board has noted the pre-existing non-conformity of the house site and the current variance is for a lesser setback reduction than variances granted in the past will be part of the resolution.

Motion by: Deidre Sokol
Seconded by: William Monti

Ms. Sokol: **Aye**
Mr. Monti: **Aye**
Chairman: **Aye**

Area variance granted, as requested, with specific condition per discussion and agreement.

BA10-15 Christopher Harrigan (18 Orchard Drive) – **Area Variance** – Per Article V Section 250-15 and Article XIV Section 250- 79 (A) (because the non-conforming lot in an R-1 zoning district is subject to R-1/2 bulk requirements). The following variances are requested for an as-built mudroom with proposed closet addition and an as-built shed:

- Decrease the rear yard setback from 35 ft. required to 4.3 ft. existing, a variance of 31 ft.
- Decrease the side yard setback from 15 ft. required to 3.56 ft. existing, a variance of 12 ft.
- Increase the maximum development coverage from 25% permitted to 28.91% existing, a variance of 4%.

Christopher Harrigan addressed the Board, stating that his 1950's house is in Pietsch Gardens on a 12,000 sq. ft. lot (just over ¼ acre). He said he purchased the house in 2008, and it had 3 violations for work done without building permits. Mr. Harrigan displayed a site map with the 3 additions highlighted in different colors.

Chairman Ivanhoe asked if the co-op approved the work, and the secretary said Mr. Harrigan provided a copy of the site map, stamped to indicate approval, 2 days before the meeting.

The Chairman said he and Mr. Monti visited the site, and he asked the Building Inspector if all the work meets Building Code requirements.

Mr. Thompson answered that everything meets Code.

Mr. Harrigan said some remediation is needed, and Mr. Monti asked him what he needs to do.

Mr. Harrigan replied that the closet addition is on a pier with a beam, and he needs to hang a beam underneath it.

Noting there were no further questions or comments, the Chairman closed the public hearing.

Mr. Reilly stated that the resolution will include the finding that the submitted drawing was approved by the Pietsch Gardens co-op.

Motion by: **William Monti**
Seconded by: **Deidre Sokol**

Ms. Sokol: **Aye**
Mr. Monti: **Aye**
Chairman: **Aye**

Area variance granted, as requested.

BA10-16 Marian and Robert Falk (58 Bonnieview Street) – **Area Variance** – Per Article V Section 250-15. The following variances from R-1/2 bulk requirements are requested for an as-built deck, porch and porch converted to a bedroom:

- Decrease the front yard setback from 30 ft. required to 26.11 ft. existing, a variance of 4 ft.
- Decrease the combined side yard setbacks from 40 ft. required to 12.95 ft. existing, a variance of 28 ft.
- Decrease the rear yard setback from 35 ft. required to 13.21 ft. existing, a variance of 22 ft.
- Increase the maximum development coverage from 25% permitted to 51.76% existing, a variance of 27%.
- Increase the maximum building coverage from 10% permitted to 34.21% existing, a variance of 25%.
- Increase the maximum Floor Area Ratio from .20 permitted to .46 existing, a variance of .26.

The Chairman called on Robert Falk, who explained that Christopher Harrigan helped him with the legalization process for the as-built conditions on his property. He said he notified his neighbors and has had no complaints. Mr. Falk stated that he was open to any questions, and he added that he always tried to build to code.

Mr. Harrigan commented that the subject property is a 4000 sq. ft. lot, and there is no room left once the setbacks are drawn.

The Building Inspector said this is an example of why the Comprehensive Plan Committee needs to consider changing the zoning around Peach Lake. He commented that 4000 to 6000 sq. ft. lots in an R-1 zoning district equal 20% of the required area.

Mr. Falk said there was a rush to get his applications together in order to avoid the penalty for work done without a permit, and he commented that Peach Lake is a congested but affordable area to live.

Chairman Ivanhoe said the Building Inspector's idea was a good one, but Mr. Monti said defining lots would be a problem because so many in the area are not surveyed/not absolute.

Mr. Thompson pointed out that Bonnieview Street is not in one of the co-ops but is part of what is known as the "hotel property". Property-owners do not need to get approval from the homeowners' association and all the lots are surveyed, unlike the proprietary-lease lots in the co-ops.

There were no further questions or comments, and the Chairman closed the public hearing.

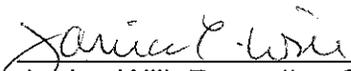
Motion by: William Monti
Seconded by: Deidre Sokol

Ms. Sokol: Aye
Mr. Monti: Aye
Chairman: Aye

Area variance granted, as requested.

As there were no further agenda items to discuss, the Chairman closed the meeting at approximately 8:50 p.m.

Respectfully submitted,



Janice Will, Recording Secretary