

**William Monti**  
**Brian Ivanhoe, Chairman**

**MEMBER ABSENT:** Richard O'Leary

**OTHERS PRESENT:** Gerald Reilly, Counsel  
Bruce Thompson, Building Inspector  
Janice Will, Recording Secretary  
Members of the Public

***Chairman Brian Ivanhoe called the March 10, 2011 Town of North Salem Zoning Board of Appeals meeting to order.***

The Chairman set the next meeting for Thursday, April 14, 2011.

The minutes of the February 10, 2011 meeting were unanimously accepted.

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.*

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**BA09-33** Evelyn Food Mart, Inc. (2 Fields Lane) – **Area Variance** – For the operation of a

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.*

**BA11-09** Cynthia Page and Gilbert Samberg (189 Vail Lane) – **Area Variance** – For construction of an accessory structure (art studio) within the side yard setback in an R-4 zoning district per Article V Section 250-15. A variance of 60 ft. is requested (75 ft. required; 15 ft. proposed).

Kenneth Siegel, architect, addressed the Board, stating that he was representing Cynthia Page and Gilbert Samberg. He said that at the February meeting, he discussed his clients' desire to build an accessory structure and also pointed out the difficulty of the site; a long and narrow lot with steep areas and wetlands. Mr. Siegel said the only area outside the setbacks is in the middle of the lot and in front of the existing residence, and his client asked to have the studio built as far to one side of his property as possible.

Mr. Siegel said Mr. Reilly and the ZBA considered the requested variance to be extreme, and advised him and his client to make an effort to reduce the request. Mr. Siegel met at the site with his client and the project engineer, and they found another spot in a clearing that will not require removal of large, old specimen trees. He stated that he found the new site acceptable, and it is 35 ft. further from the side yard line. Mr. Siegel said he has also re-positioned the studio at a little more of an angle so it will be nearer to the Samberg residence/ further away from the nearest neighbor's home (Markel) than what was originally proposed. He added that the building cannot be located any closer to the house because it would encroach on the septic expansion area.

farther back from the side yard line and still avoid the septic expansion area. He commented that the building is tall, and while the Markel house is not close, there is another neighboring lot that a future owner might want to build a house on. Chairman Ivanhoe asked why not slide the studio back more and avoid the variance.

Mr. Siegel said his client does not want the studio in front of his house. He stated that his client originally requested that he design an addition at one end of the house, but the area is entirely within a wetlands buffer area.

The Chairman indicated an area on the site map and sketched imaginary sight-lines.

Mr. Siegel said it would mean the house would be the last building seen when driving onto the property.

Chairman Ivanhoe said he envisioned it as a grouping of buildings, with the smaller studio appearing as a sort of gateway to the larger residence, and he didn't understand why Mr. Samberg would not want to see the studio building.

The Chairman asked about a location to the left side of the driveway.

Mr. Siegel said his client felt the studio would be too far away from the house there, and it would also be near a wetlands area that changes in size over time. He stated that he would like to avoid the need for a variance, but Mr. Samberg does not want the studio in front of his house. He added that the new proposed site requires a lesser variance than the original site, and the studio will be in the woods where it won't affect any one. Mr. Siegel explained that the studio will be far away from the Markel house, and the other lot is a cattle farm, which he doesn't think the owner would turn into a residential lot. He said he has not heard from the owner and asked if he objects to the variance application.

The Chairman said he was merely representing the interests of all the neighboring property-owners. He asked if Mr. Siegel made any change in the height of the studio

Mr. Siegel responded that he believes the studio will mostly be used during daylight, adding that it is not intended for use as a guesthouse, as it has neither a full bath nor a kitchen.

Mr. Reilly noted that one of the Board members said at the February meeting that they would want a condition in any resolution approving the variance that the building may never be used as an accessory apartment.

Mr. Monti said it was he who raised that subject.

Mr. Reilly said it was a good point because a future owner could easily convert the studio's use.

The Chairman said such a change in use would affect neighbors, and Mr. Siegel agreed with him.

Mr. Reilly asked Mr. Siegel if his client would accept a condition that the studio may never be used as living quarters or an accessory apartment.

Mr. Siegel replied that he would like to ask him, but he thought he would agree because he only wants an artist's studio for his wife. He added that Mr. Samberg intends to live on the property for a long time; a future owner could worry about using the building as an accessory apartment.

Ms. Sokol thought she recalled that Mr. Samberg had responded to the raising of the subject, but she could not remember the specifics of what he said.

Mr. Monti said such a condition could be incorporated into the deed for the property, and Mr. Reilly agreed.

Chairman Ivanhoe asked if the studio will be connected to the existing septic system

The secretary stated that the 2 questions are only applicable to use variances, and Mr. Reilly said that was correct.

Mr. Monti said he understood, and he reiterated that he would still like to see the proposed studio moved closer to or out of the required setback. He said he does not like to see things too far inside the setbacks, except in cases like the Peach Lake co-ops, where the lots are very small that/everything is very close.

Chairman Ivanhoe said there is a lot of room and suggested sliding the studio from its current location directly northward to where the setback line would cut through the middle of the building. He said this would not affect the viewshed and would have no effect on the trees at all. He noted that there would not be much grade change either. The Chairman said he thought this would be a reasonable compromise and show a greater effort on Mr. Samberg's part to reduce the area variance request.

Mr. Siegel said he did not think his client would be happy, and he could not just agree to it for him.

Mr. Reilly pointed out that with only 3 Board members present, a unanimous vote was the only way the application could be approved.

Ms. Sokol said lowering the height of the building would help, but it seemed like that would be difficult to do.

Mr. Siegel said it would be very difficult.

Mr. Monti agreed, saying the height is necessary to provide natural light.

Mr. Siegel asked if the Board would accept moving the studio so the little front porch is on the setback line instead of centering the building on the line.

Mr. Siegel asked if the Chairman's concept was for the middle of the studio to be on the setback line, and Chairman Ivanhoe said yes, approximately.

Mr. Reilly stated that he could not advise the Board to vote on an amorphous line. He said Mr. Siegel should take the Board's request to his client and see what he says.

Chairman Ivanhoe asked if, to avoid having Mr. Siegel come back again, the Board could have a condition in the resolution that the exact setback will be determined later.

Mr. Reilly said the Board needs a specific drawing to approve that the Building Inspector can check work against.

Mr. Siegel said the engineering is not done yet, there is a wetlands permit to get, etc., so he is not ready to build yet any way.

The Chairman noted that even if the building is moved, it will still be in the setback, so the Board will want a condition preventing use of the studio as an accessory apartment.

Mr. Reilly said he will draft something to that effect.

Mr. Monti commented that there will be less intensive use of the building as a studio. He added that he would like to see a new drawing with the middle of the studio on the setback line.

Chairman Ivanhoe said the suggested movement won't change the use of the building.

Mr. Siegel said it won't change the orientation of the design, either. He thanked the Board for their time and said he would return in April.

The Chairman closed the meeting at approximately 8:40 p.m.