

**Town of North Salem
BOARD of APPEALS
Public Hearing
May 12, 2011
8 p.m., The Annex**

MEMBERS PRESENT: Richard O'Leary
Deidre Sokol
Brian Ivanhoe, Chairman

MEMBER ABSENT: William Monti

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

Chairman Brian Ivanhoe called the May 12, 2011 Town of North Salem Zoning Board of Appeals meeting to order.

Chairman Ivanhoe 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.

The Chairman set the next meeting for Thursday, June 9, 2011.

The minutes of the April 14, 2011 meeting were unanimously accepted.

PUBLIC HEARINGS

BA11-13 Hilltop Stables, LLC (39 Hilltop Drive) – **Special Permit** – For the keeping of up to 5 horses for personal use in an R-4 zoning district, per Article XIII Section 250-72.

Michael Sirignano, attorney for the applicant, stated that the application is identical to the November, 2010 application of the Pintos (current property-owners). He said his client is in contract to acquire the subject property and requires a new permit for the keeping of up to 5 horses for personal use. He added that no site changes or construction are proposed, and there will be no shows, public access, lights or loudspeakers. Mr. Sirignano stated that the proposed use is the same as that which has existed on the property for the past 11 years.

The Chairman said he is familiar with the farm, and asked if there were any questions. Noting there were no questions or comments, he closed the public hearing.

The Building Inspector asked if anyone will reside full-time on the property, and Mr. Sirignano replied that someone will.

Mr. Reilly asked if the Board wanted a barn alarm that can be heard outside.

Chairman Ivanhoe said it was a good point and asked Mr. Sirignano to confirm that there is such an alarm.

Mr. Reilly read a draft resolution.

Motion by: *Deidre Sokol*
Seconded by: *Richard O'Leary*

Mr. O'Leary: *Aye*
Ms. Sokol: *Aye*
Chairman: *Aye*

Special permit granted, as requested.

BA11-17 Lisa and Daniel Seymour (7 Deer Run Court) – **Area Variance** – To decrease the minimum rear yard setback in an R-2 zoning district, per Article V Section 250-15. A variance of 16 ft. is requested (50 ft. required; 34.9 ft. existing) to permit a storage shed to remain as constructed.

Mr. and Mrs. Seymour were present. Daniel Seymour explained that the purpose of his application was to correct a defect in the rear yard setback. He stated that he provided an updated survey which shows his shed to be 34.9 ft. from the property line, and he added that it is well-screened.

The Chairman noted there were no questions and closed the public hearing.

Mr. Reilly read a draft resolution.

Motion by: *Richard O'Leary*
Seconded by: *Deidre Sokol*

Mr. O'Leary: *Aye*
Ms. Sokol: *Aye*
Chairman: *Aye*

Area variance granted, as requested.

BA11-20 Christopher Brockmeyer (12 Main Street) – **Area Variance** – To decrease the minimum side and rear yard setbacks in an R-1/2 zoning district, per Article V Section 250-15. A side yard variance of 12 ft. (15 ft. required; 3 ft. proposed) and a rear yard variance of 20 ft. (35 ft. required; 15 ft. proposed) are requested for installation of a storage shed.

Christopher Brockmeyer addressed the Board, saying he seeks to replace an old shed that collapsed during the past winter. He explained that the new shed is 10 ft. x 16 ft. and Victorian in style. He said he intends to have the shed installed at the rear left of his property, above the Lions Club building.

Chairman Ivanhoe said he knows the site, and he asked what sort of foundation will be employed.

Mr. Brockmeyer replied that either concrete or pressure-treated wood pilings will be used to correct the approximately 2 ft. difference in elevation.

Mr. O'Leary asked if any cut-and-fill will be needed, and Mr. Brockmeyer answered that a small amount will be necessary to level the shed.

The Chairman asked Mr. Brockmeyer whether he thinks he wants to use concrete or railroad ties.

Mr. Brockmeyer said it has not been decided yet, although the shed company feels pressure-treated wood is sufficient. He added that if railroad ties are employed, he would probably cover them with white-painted lattice-work; if concrete is used, he might have it finished with a stone veneer.

Chairman Ivanhoe commented that if concrete is used, it should be covered with something to make it more attractive.

Mr. Brockmeyer asked if the Board had a specific recommendation of one or the other type of foundation.

The Chairman commented that he thought wood would look better, and he asked what color the shed will be.

Mr. Brockmeyer replied that it will be painted white like his house.

Mr. O'Leary asked if Mr. Brockmeyer thought of rotating the shed so it is parallel with the rear property line.

Mr. Brockmeyer said turning it would not work in terms of shed-access, since the doors will be on the gabled end/should face upward toward the house.

Mr. O'Leary asked if there will be any lighting in the shed, and Mr. Brockmeyer said there will not be any.

Chairman Ivanhoe asked the Building Inspector if a building permit will be needed for the shed, and Mr. Thompson replied that it will.

The Chairman asked what the Building Inspector thought of using railroad ties versus a concrete foundation.

Mr. Thompson said he would typically accept either one for a shed of this type, leaving the choice of base to the applicant.

The Chairman asked when Mr. Brockmeyer anticipated knowing what will be used.

Mr. Brockmeyer said he originally insisted on concrete, but the shed company said it would be unnecessary. He said his preference now, if acceptable to the Board, would be to use wood and cover it with painted lattice.

Chairman Ivanhoe noted there were no further questions and closed the public hearing. He asked that the resolution contain a statement that depending on the final foundation material chosen, some decorative material of the applicant's choice will be employed (stone over concrete or painted lattice over railroad ties).

Mr. Reilly read a draft resolution.

Motion by: *Deidre Sokol*
Seconded by: *Richard O'Leary*

Mr. O'Leary: *Aye*
Ms. Sokol: *Aye*
Chairman: *Aye*

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

BA11-21 Corey and Jason Clark (66 Lake Street) – **Area Variance** – To decrease the minimum front and side yard setback in an R-1/2 zoning district, per Article V Section 250-15. A front yard variance of 19 ft. (30 ft. required; 11 ft. proposed) and a side yard variance of 11 ft. (15 ft. required; 4 ft. proposed) are requested for construction of a deck on a non-conforming single-family residence.

Corey and Jason Clark were present. Jason Clark stated that they have been working to make improvements to their house on Lake Street. He explained that the proposed deck will cover the footing drainage pit and the boiler exhaust fan, and also provide access to the rear of the property. Mr. Clark added that the deck will be concealed by existing mature shrubbery.

The Chairman noted that the deck will also be safer for the NYSEG meter-reader.

Mr. Clark said that was correct, explaining that part of the work on the house involved lifting it up 2 ft., so the electric meter is now 2 ft. higher also.

Mr. O'Leary asked if there is anything on the Clarks' adjacent lot, and Mr. Clark replied that there is not.

The Building Inspector asked Jason Clark if he provided construction drawings with the application.

Mr. Clark said he didn't get them yet. He did explain that the deck will be from 2 ft. to 4 ft. off the ground, the lowest part being nearest the street.

Mr. Reilly asked if there were elevation drawings, and Corey Clark said there were not.

Mr. Reilly asked if the subject property is in a co-op, and Mr. Clark said it is not.

The Chairman commented that there will be 3 steps down from the deck. There were no further questions, and he closed the public hearing.

Mr. Reilly read a draft resolution, including the condition that proper construction plans be submitted to the Building Inspector before a building permit will be issued.

Motion by: *Deidre Sokol*
Seconded by: *Richard O'Leary*

Mr. O'Leary: *Aye*
Ms. Sokol: *Aye*
Chairman: *Aye*

Area variance granted, as requested.

BA11-22 Charlotte M. Harris (663 Titicus Road) – **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district, per Article V Section 250-15. A side yard variance of 55 ft. is requested for construction of a detached 2-car garage (75 ft. required; 20 ft. proposed).

David Dunn, architect for the Harris project, addressed the Board. He stated that the proposed 2-car detached garage will be within the side yard setback. He said access to the garage will be from a shared drive. He added that the 2 closest neighbors had sent the Board letters supporting the application.

Chairman Ivanhoe asked if the secretary had the letters in the record, and she answered that she did.

The Chairman noted that Mr. O'Leary is involved in the project but said he should still be able to vote on the application.

Mr. Reilly said the Chairman was correct.

The Chairman said it was good to have the letters of support from the neighbors, especially Mr. Selvaggi who shares the drive with Ms. Harris. He added that the garage will look nice.

John Roach, husband of Ms. Harris, was also present. He said he spoke to the Kamensteins and Mr. Selvaggi (the nearest neighbors), and they told him they had no objections to his application.

Chairman Ivanhoe asked if the lighting shown on the elevation drawings is all the lighting proposed for the garage.

Mr. Dunn said that was correct, adding that all the fixtures will be aimed downward.

The Chairman asked what the second floor of the garage will be used for, and Mr. Dunn answered that there will be storage in the loft area.

Mr. Reilly asked if the Chairman wanted a condition in the resolution that the second floor may only be used for storage.

Chairman Ivanhoe said he did not see how the loft is to be accessed.

Mr. Dunn explained that there will merely be a ladder and hatch entrance.

Mr. Dunn explained that it will not be a full second floor and will have insufficient headroom.

The Chairman said the condition in the resolution would not be necessary, and he closed the public hearing.

Mr. Reilly read a draft resolution.

Motion by: *Deidre Sokol*
Seconded by: *Richard O’Leary*

Mr. O’Leary: *Aye*
Ms. Sokol: *Aye*
Chairman: *Aye*

Area variance granted, as requested.

BA11-23 Patricia Hartwell (844 Peach Lake Road) – **Special Permit** – For the keeping of up to 3 horses for personal use, per Article XIII Section 250-72.

Patricia Hartwell stated that she has a 3-stall barn on her property and would like to keep 3 horses. She said this was important to her because 2 of her horses are injured, and the barn where she was boarding them closed suddenly.

Chairman Ivanhoe asked if Dr. Hartwell has had the horses on her property before.

Dr. Hartwell explained that she has had them there temporarily, but there was no fencing. She stated that she kept one for 6 weeks after she purchased it at auction in order to keep it quarantined.

The Chairman commented that Dr. Hartwell’s new fencing is very nice and the paddock grass is coming in.

Dr. Hartwell stated that her pony has special needs/it founders on grass, so one paddock will have wood chips instead of grass to prevent mud. She explained that there will be a tarp over the top of the manure dumpster so that water will not drain into it.

The Chairman commented that this was a good idea if the dumpster is to be kept open.

Dr. Hartwell said she wants to keep water out of the dumpster for reasons of odor and appearance, and also because the extra weight would be hard on the driveway.

Chairman Ivanhoe wondered if Dr. Hartwell couldn't use a smaller dumpster.

Dr. Hartwell said hers is only 15 yards, and the 10-yard dumpsters tend to be tall in addition to needing to be emptied often.

Chairman Ivanhoe asked if Dr. Harwell had considered another location for the dumpster.

Dr. Hartwell explained that it is the only reasonable place. She said that out in front would be too close to the side yard.

The Building Inspector said the septic fields are on that side, too.

Mr. Reilly commented that with 2.91 acres, Dr. Hartwell has almost an acre per horse.

The Chairman said there is sufficient turn-out, he simply had had some concerns about the dumpster.

Dr. Hartwell stated that the dumpster is more than 75 ft. from the property line. She said it is important to keep water out of it/prevent drainage, and she already has a tarp to use.

Chairman Ivanhoe asked how the tarp will be anchored, and Dr. Hartwell said there are rods along the sides to tie the tarp onto.

Mr. Thompson agreed that a bungee cord attached to the rods will work, but he added that it will be important to keep the tarp taut.

Dr. Hartwell said it is helpful to her that the dumpster slants downward, because it facilitates loading from the front with a bucket.

The Chairman asked if the subject property is in the Ag District, but Dr. Hartwell did not know.

Chairman Ivanhoe said he asked because if her property is in the Ag District, Dr. Hartwell could get helpful advice from the Watershed Agricultural Council.

Dr. Hartwell said WAC did come, and they made recommendations. She asked for a formal report, but WAC said they do not prepare reports for small farms that would have little environmental impact.

Dr. Hartwell stated that she is putting an outside alarm in the barn, and her hay delivery person suggested a temperature sensor for the hay loft.

The Chairman said most barns now have heat sensors rather than smoke detectors, because smoke detectors tend to malfunction from the hay dust. He said he prefers smoke detectors, because there can be a fire that is not hot enough to set off the heat sensor.

Dr. Hartwell said she has both, as well as emergency lighting, and the Chairman said that was good.

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

Mr. Reilly read a draft resolution, including the finding that the dumpster site is satisfactory to the Board and there is no other appropriate site due to the location of the septic field.

Motion by: **Richard O'Leary**
Seconded by: **Deidre Sokol**

Mr. O'Leary: **Aye**
Ms. Sokol: **Aye**
Chairman: **Aye**

Special permit granted, as requested.

BA11-19 Zachary Buchwald (150 June Road) – **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district, per Article V Section 250-15 and Article VI Section 250-20 (because parking is not permitted in a required yard). A variance of 15 ft. is requested (75 ft. required; 60 ft. proposed) for construction of a detached 3-car garage and creation of a driveway extension.

Viktor Solarik, Mr. Buchwald's architect, displayed a site plan. He said the house underwent renovations and additions in 2007 that included conversion of an attached 3-car garage to additional living space. Mr. Solarik pointed out a 1-story barn and a rental cottage on the property. He stated that a septic field prevents conversion of the barn to a garage, so the barn will be removed. A new garage is proposed for the north side of the property which abuts an empty Old Salem Farm-owned lot, creating a 200 ft. gap between the Buchwald property and the next neighbor to the north, the Parrishes (154 June Road).

Zach Buchwald stated that his neighbors to the south are the Edelmanns (148 June Road).

Mr. Reilly asked if the cottage wouldn't be an accessory apartment, but Mr. Thompson explained that it is so old that it does not require a special permit.

Chairman Ivanhoe commented that he is very familiar with the cottage, and Mr. Buchwald said he intends to improve the appearance of the exterior of it.

Mr. Solarik said he has positioned the new garage as close to the pool area as reasonable and far enough away from other areas that it would be visible from. He added that the mature trees along the long existing driveway will screen the garage from view from the road. He explained that the garage will have stairs leading up to a loft area. As the garage will be built on a slope, it would be possible to put a cellar under 1/3 of the building which could be used for garden tools, etc.

The Chairman asked where the pool equipment is.

Mr. Buchwald responded that it is in the barn now, but it will all be moved to the garage.

Mr. Solarik displayed elevation drawings of the garage and described some of its architectural features.

Chairman Ivanhoe asked why not rotate the garage-access southward, which would move the building out of the side yard setback and give it more of a relationship to the house.

Mr. Buchwald explained that he thought there would be a more elegant entrance off the driveway as shown.

Mr. Solarik added that it will also be easier to turn in to the garage as drawn.

Mr. Buchwald said he also does not want the garage too close to the pool, and he thinks the proposed site strikes the right balance.

The Chairman said he thought it would be more natural-looking to have the garage rotated.

Mr. Reilly stated that one of the Board's responsibilities is to grant the least variance possible, which would be achieved by rotating the garage.

Mr. Buchwald said the garage will not fit entirely outside the setback, and there are also trees and a fence present.

Mr. Solarik said the rotated garage (with an added grade-change of 3 to 4 ft.) would require more re-grading and possibly a retaining wall, both of which would cause more disturbance. He said the gentle slope of the proposed location will work very well.

Chairman Ivanhoe commented that the rotated garage would contribute to the pool enclosure. He indicated a note on the plans about removing a 20 in. in diameter tree for the driveway extension leading to the new garage.

Mr. Solarik said the location of the driveway addition was planned in such a way that the worst-looking tree in the worst shape would be the one removed.

The Chairman asked if the new drive couldn't be slid between the existing trees so none would need to be removed.

Mr. Buchwald said he consulted an arborist, who said the danger of the Chairman's suggestion is that the driveway could threaten 2 trees, so he thought it preferable to plan to take out the one weak tree. He added that it was hard to decide to remove even one, because the trees are very large and beautiful.

The Chairman asked if the driveway will be gravel, and Mr. Buchwald said it will be.

Chairman Ivanhoe asked who the arborist is.

Mr. Buchwald replied that it was a man recommended to him by his neighbor, Dick Button. He said he was open to having a second opinion about putting the driveway between 2 trees, adding that this would not affect the placement of the garage.

The Chairman said rotating the garage and moving the new driveway over would create a nice curve in the approach to the garage, but he also noted that Mr. Buchwald seemed pretty firm in his wish to keep the garage as sited on the plans. Chairman Ivanhoe said he would like Mr. Buchwald to see if it would be possible to spare the tree.

Mr. Buchwald assured the Chairman he will look into that. He asked if the part of the variance relating to the driveway needed to be resolved at this meeting.

Chairman Ivanhoe said the driveway would not affect the setback variance for the garage, as the part of the variance pertaining to allowing parking in a setback is not specific.

The Building Inspector said the Chairman was right; wherever the driveway is, permission for parking has been covered by this variance.

Mr. Buchwald said he doesn't intend to park in the driveway, but he understood the need to cover the possibility. He added that he hopes to be able to spare the tree.

Mr. Thompson stated that there is 30 ft. between the trees, so a 15 ft.-wide drive would come within 7.5 ft. of each tree, well under the drip-line. He said he could understand the arborist's concern that the health of the trees would be jeopardized.

The Chairman said there are many tree-lined drives where the trees thrive. He asked what kind of maples the trees are.

Mr. Buchwald said they are sugar maples.

Both the Chairman and Mr. Thompson commented that these are not particularly hardy trees.

Mr. Solarik said the tree roots are coming up out of the ground, so he thinks the work to even out the area for the driveway would stress them.

The Chairman asked if there is a landscaping plan.

Mr. Buchwald said there is none for along the driveway, but he plans a garden area near the garage where there will be a lot of shrubs. He noted that he has a lot of boxwood around his house, and he would probably use those as well as other kinds of plants.

The Chairman noted there were no further questions and closed the public hearing. He asked if there will be a light in the cupola on the garage, and Mr. Buchwald responded that there will not be.

The Building Inspector stated that ZBA resolutions typically state that something is approved per the submitted plans, but there is no lighting in these plans, although the Building Code requires a light outside a building.

The Chairman said the condition will read that any exterior lighting employed must be aimed downward/not visible at its source.

Mr. Reilly asked if the Board wanted to restrict use of the loft in the garage to storage.

Chairman Ivanhoe said he did not think it necessary to do so.

Mr. Reilly read a draft resolution including the condition about exterior lighting.

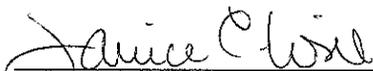
Motion by: **Richard O'Leary**
Seconded by: **Deidre Sokol**

Mr. O'Leary: **Aye**
Ms. Sokol: **Aye**
Chairman: **Aye**

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

The Chairman closed the meeting at this time.

Respectfully submitted,



Janice Will, Recording Secretary