

**Town of North Salem  
BOARD of APPEALS  
Public Hearing  
July 14, 2011  
8 p.m., The Annex**

**MEMBERS PRESENT:** Cynthia McKean  
William Monti  
Brian Ivanhoe, Chairman

**MEMBER ABSENT:** Richard O'Leary

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

***Chairman Brian Ivanhoe called the July 14, 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.

Chairman Ivanhoe set the next meeting for Thursday, August 11, 2011.

The minutes of the June 9, 2011 meeting were unanimously accepted.

The Chairman welcomed new member Cynthia McKean to the Board, saying she has been associated with and a resident of North Salem for years and will bring enlightened intelligence to the Board.

**HEARING CONTINUED**

**BA11-24** Richard S. Swanson (11 Baxter Road) – **Area Variance** – To decrease the minimum front and side yard setbacks for a Use Group "A" structure in an R-4 zoning district per Article V Section 250-15. A front yard setback variance of 45 ft. (100 ft. required; 25 ft. existing; 55 ft. proposed) and a side yard setback variance of 23 ft. (75 ft. required; 50 ft. existing; 52 ft. proposed) are requested for construction of an addition to a non-conforming barn.

The Chairman stated that the Town Board granted a waiver of the Application Processing Restrictive Law to the applicant, and he read it into the record:

“Resolved, that the Town Board of the Town of North Salem hereby grants a waiver of the Application Processing Restrictive Law (APRL) to Richard S. Swanson for six months for the property at 11 Baxter Road, North Salem, NY in order to move forward with remediation on that portion of Violation #V11-09 issued by the Town Building Inspector regarding Chapter 92-4 (a) – the requirement of building permits. The portion of Violation #V11-09 relating to Chapter 137-3 on the disposal of litter continues to require immediate action.”

Jim Davis, architect, addressed the Board, stating that his client, Richard Swanson, was also present. He explained that the application was originally submitted with a portion of a subdivision map but he now had a map of the entire property, which he displayed. He pointed out that the plot diagram indicates buildings on the property and what they are used for. The large former cow barn is to be used for hay after the renovation and addition are completed.

Mr. Davis stated that the subject property has an agricultural exemption, which is why his client thought he would not need a Building Permit for the addition to the barn. He explained that when Mr. Swanson re-dug the foundation he discovered additional foundation to the rear of the barn, which he began to build on top of. Mr. Swanson then learned that the addition would require a variance before a Building Permit could be issued. Mr. Davis said a clean-up of the property is under way and a Building Permit was requested to complete construction.

Chairman Ivanhoe said he went by the property that day. He noted that the grass has been mown, but the mowing was not enough to instill confidence that everything will be taken care of. The Chairman stated that if the Board were to grant the area variance, he will want to see complete remediation of conditions on the property.

Mr. Davis asked what, specifically, the Chairman wanted done.

The Chairman said the buildings look abandoned, with plants growing up on and into them and vines running up the side of the main barn. He noted that there is also a pile of material near the barn, adding that keeping the site neat would go a long way toward satisfying the Board's concerns about impact on the neighborhood.

Mr. Davis said that is his client's intent, but the Chairman commented that not much has been done.

Mr. Davis said the interior of the barn has been cleaned up.

The Chairman said he had noted the interior clean-up, but it does not impact the neighborhood the way exterior conditions do.

Mr. Davis said he will speak to the contractors about removing the materials outside the barn.

Chairman Ivanhoe said that when the mowing was done, a weed-whacker could have been employed to clear overgrowth right up to the bases of all the buildings. He said the site has long looked abandoned and has a very negative impact, and he does not have a good sense of what will occur in the future.

Mr. Davis said the stipulation was that his client will clean up the entire property, but the Chairman countered that the work done so far is a half-measure.

William Monti asked, if the area variance were granted, when Mr. Swanson would satisfy the other part of the Violation.

Mr. Swanson said he mowed all the grass along the road and around the buildings himself, not the person who mows the hay.

The Chairman said the property does not look much different, because of the overgrowth on the buildings. He said he noticed that tarps have been put over the openings, but he thinks more needs to be done. The Chairman commented that he would be dissatisfied if he was a neighboring property owner, and he would like to see more progress made.

Mr. Monti stated that there is a Violation on the property now, and he asked when Mr. Swanson will satisfy the demands of the Violation.

Mr. Davis asked Mr. Swanson how much time he will need.

Mr. Swanson replied that the violation was issued because the building was open and now it is closed.

Gerald Reilly suggested that one way to handle the issue, if the substantial variance is granted, would be for the Board to condition the variance upon rectifying any and all violations on the property to the satisfaction of the Building Inspector within a specific time period, or the variation will be void. Mr. Reilly added that the resolution could also state that no Building Permit may be issued until then.

Mr. Monti said that if Mr. Swanson says he can finish the work within 4 weeks, he could return to the Board in August, and the Board would consider the variance then. Otherwise, they could offer conditional approval now.

Mr. Reilly asked Mr. Davis if he would like to step outside and speak to his client/see what he wants to do and then come back to the meeting.

Mr. Davis said his client did not know exactly what is expected of him.

Mr. Reilly said that if Mr. Swanson did not understand what the violation requires, he should have spoken to the Building Inspector. Mr. Reilly suggested that Mr. Swanson talk to Mr. Thompson to see what he wants done. He added that the Building Inspector wanted to be present at the meeting but was unable to do so, but he did say he had seen no progress with the clean-up.

*Mr. Davis and Mr. Swanson left to discuss the options offered, and the public hearing remained open.*

## PUBLIC HEARINGS

**BA11-28** Donna and Edward Taylor (10 Wheeler Road) – **Area Variance** – To decrease the minimum front and side yard setbacks 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 front yard variance of 43 ft. (75 ft. required; 32 ft. proposed) and a side yard variance of 30 ft. (75 ft. required; 45 ft. proposed) are requested for construction of a lap pool and 3-car garage with shop and recreation room.

Viktor Solarik, architect, and his client, Edward Taylor approached the Board. Mr. Solarik explained that his client was seeking a variance to construct a new garage to replace 2 existing structures (a studio accessory apartment and an old garage). He said he intends to re-use some of the old lumber to build a single structure on approximately the same footprint as the 2 existing buildings. Mr. Solarik displayed a drawing with outlines of the old and new structures. He said that where the studio apartment is now, there will be a storage area and bicycle workshop in the new building. Upstairs there will be a recreation room with bar and a gym area with bathroom and spa. He stated that he went to the Health Department about re-arranging the bedrooms. He explained that while there will be no bedroom in the new building, there is a full bath on the second level so the room next to it meets the Health Department definition of a bedroom. As the apartment is to be demolished, the Health Department agreed that there will be no additional bedrooms and approved the plan.

The Chairman said the Health Department is assuming that the bedroom count will not be increased.

Mr. Solarik said that was correct. He said one bedroom exists and only one room in the new building would be considered a bedroom.

Mr. Reilly asked if Mr. Solarik was saying that the Health Department was allowing an additional bedroom.

Mr. Solarik said they are not; there was one on the first floor of one of the old buildings to be demolished, and there will be a room on the second floor of the new building that would be considered a bedroom, but that is not how it will be used. He further stated that there was a special permit for an accessory apartment on the subject property in the past.

Mr. Monti asked if there was a Certificate of Occupancy for the apartment, and Mr. Solarik answered that there was a special permit and a C/O.

Mr. Monti asked if the C/O will be given up.

Mr. Solarik said Mr. Taylor does not intend to use the new building as an apartment. He added that it was his belief that the special permit would have expired when his client purchased the property.

Mr. Reilly said that was correct; there is no valid special permit at present.

Mr. Monti said he wanted to know about the Certificate of Occupancy, and Mr. Reilly responded that he thought the C/O would have expired when the special permit expired.

Mr. Taylor stated that the apartment was there when he purchased the property.

Mr. Reilly said that the special permit would have expired on change of ownership, so the C/O for that use would also expire, so Mr. Taylor is essentially starting over.

Chairman Ivanhoe stated that if Mr. Taylor wants an accessory apartment, he will need to apply for a new special permit.

Mr. Solarik said they understood, and he assumed everything is fine as long as Mr. Taylor does not wish to have an apartment. He said that was his understanding after meeting with the Building Inspector about the proposed construction. He stated that his client merely wants a recreation room in conjunction with the proposed in-ground pool. Mr. Solarik said the pool is to be constructed on the footprint of an existing bocce court (8 ft. x 50 ft.).

Mr. Monti asked where the pool equipment is to be installed, commenting that it was not noted in the submitted plans.

Mr. Solarik said the equipment will be placed in an existing stone shed.

Ms. McKean asked if Mr. Solarik meant the building up and behind the proposed garage.

Mr. Solarik said that was correct, adding that the property is terraced with several retaining walls. He further stated that the property is peculiar, its long and narrow shape creating the need for a variance. It is also a 2-acre lot in an R-4 zoning district.

Ms. McKean asked if the new structure will go right up to a stone wall she indicated on the site plan.

Mr. Solarik answered that it will be no closer than the existing buildings/about 30 ft. away from the wall.

Chairman Ivanhoe said he saw no exterior lights on the pool side of garage.

Mr. Solarik pointed out three sconces by the doors, adding that they will be aimed downward.

The Chairman asked if the 2 pairs of lights on the east elevation are floodlights.

Mr. Solarik said they are, intended as security lights, and he offered to put them on motion sensors.

Mr. Taylor said he would not mind if the Board preferred there be no lights there. As an alternative, he asked if gooseneck fixtures trained downward would be acceptable.

The Chairman said floodlights are a problem if there are houses nearby.

Mr. Solarik stated that he usually employs RAB lights with cast iron housings.

Chairman Ivanhoe said the lights would be acceptable with motion sensors.

Ms. McKean asked about the artificial pond on the lot.

Mr. Solarik said the water level fluctuates a great deal. He said the pond is man-made and has a plastic liner.

Mr. Taylor said it is a sore point. He added that it attracts mosquitoes in the summer, and he wondered if he could just fill it in. He said he thought keeping the pond fuller and doing something about circulation would help.

Ways to improve the pond were discussed, and the Chairman said that it could easily be filled in as it is artificial and not in a wetlands area.

Mr. Taylor said that if what he would like to do, he just never knew whether he would be allowed to.

Mr. Monti asked that in the future, Mr. Solarik include adjoining houses on site plans.

Mr. Reilly also noted that the stone shed should have been labeled as intended to house the pool equipment.

Chairman Ivanhoe asked if the pool will be heated with gas.

Mr. Solarik explained that an existing oil tank will be removed and a buried propane tank brought in.

The Chairman asked where the tank will go.

Mr. Solarik replied that it is still being looked into, because there is a lot of rock on the property/the tank will need to be accessible for servicing. He said he thought it might be put in next to the garage.

Mr. Taylor asked if burying the tank is permitted.

The Chairman responded that it is. He added that only the bonnet will show above ground, and he asked that the Building Inspector be informed of its location.

Mr. Solarik agreed, adding that it will not be put where it would exceed the requested variance.

Mr. Monti noted that when he made his site inspection, he couldn't find the house number. He said this is a problem for emergency vehicles.

Mr. Taylor says there is a ceramic number on the wooden gate at the front of the house, but he can get something better/more visible.

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

Mr. Reilly read a draft resolution, including conditions that there may be no flood lights on the garage, and Mr. Solarik will include the locations of the underground propane tank and the pool equipment (not to exceed the setbacks permitted by the area variance) on the site plan submitted for the building permit.

**Motion by:** William Monti  
**Seconded by:** Cynthia McKean

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

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

*At this time, Messrs. Davis and Swanson returned to the meeting room, and the hearing of application BA11-24 was resumed.*

Mr. Davis stated that of the 2 options, his client would prefer to be granted a conditional area variance. He said that, because they are not sure exactly what needs to be done, he will meet with the Building Inspector next week to find out exactly what is wanted, and those requirements will be satisfied by the next Board of Appeals hearing.

Chairman Ivanhoe said he thought it was a good solution.

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

Having stepped out of the room for a moment, Mr. Reilly asked that Mr. Davis repeat his proposal for the record.

Mr. Davis did as Mr. Reilly asked.

Mr. Reilly said the approval of the variance will be conditioned upon compliance by the applicant by August 11 with any and all conditions set by the Building Inspector.

Mr. Reilly read a draft resolution including the condition described above, adding that non-compliance will result in immediate expiration of the area variance.

**Motion by:** William Monti  
**Seconded by:** Cynthia McKean

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

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

**BA11-29** Elizabeth Hamawy (78 Cove Road) – **Area Variance** – To decrease the minimum combined side yard setbacks in an R-1 zoning district per Article V Section 250-15 and Article XIV Section 250-79 (A) (because the non-conforming lot is subject to R-1/2 bulk requirements). A variance of 8 ft. is requested for construction of a single-family residence (40 ft. required; 32.7 ft. proposed).

Elizabeth Hamawy addressed the Board, stating that she wishes to have a modular single-family house built on her property in Bloomerside. She explained that although the house is modest, it would require a setback variance on one side.

The Chairman asked if Ms. Hamawy provided proof of approval of the Bloomerside Co-op, and the secretary replied that there is an official stamp and the signature of the Co-op board president on the site plan provided with the application.

Mr. Monti commented that there is usually a letter from the Co-op.

The secretary said she didn't think she had asked Ms. Hamawy to provide a letter of approval/thought the stamp and signature would be sufficient.

Chairman Ivanhoe asked if there will be just one exterior light fixture near the front door of the house, but Ms. Hamawy told him there will also be a light on each side of the house/one at the rear.

The Chairman asked that the floodlights be covered, as the houses in the neighborhood are fairly close together.

Ms. McKean said it appeared that the new house will have double the square footage of the existing house.

Ms. Hamawy said that was correct; there will be approximately 1000 sq. ft. for the first floor/ the second floor will be unfinished initially. When the second floor is finished, it will provide another 600 sq. ft.

Ms. McKean said it seemed the house will not have a much larger footprint than the existing house.

Ms. Hamawy said the new house will be somewhat deeper and about 3 ft. wider on the right side than the existing house.

The Chairman asked if the Co-op doesn't usually limit houses to one story.

Ms. Hamawy said building height may depend on the feelings of the neighbors; otherwise, there is only a height limit.

Chairman Ivanhoe called on Diane Bamford of 15 Lakeside Drive.

Ms. Bamford explained that she is the former president of the Bloomerside Co-op and signed the site plans. Ms. Bamford said the Co-op held 2 hearings on Ms. Hamawy's application to have the new house built, and Ms. Hamawy had the roofline lowered by 3 ft. to allay her neighbors' concerns. Ms. Bamford said the Board would have approved either house plan because both were less than 25 ft. in height, and she stated that everyone in the Co-op had a chance to speak.

Mr. Monti asked if minutes were taken at the meetings.

Ms. Bamford said she thought so and asked if Mr. Monti wants to see them.

Mr. Monti said he just wondered/did not want a copy of the minutes.

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 applicant provided proof of the Bloomerside Co-op's approval of the application.

**Motion by: Cynthia McKean**  
**Seconded by: William Monti**

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

**Area Variance granted, as requested, with the condition that floodlights not be visible at their source..**

**BA11-30** Nora and Todd Amus (27 June Road) - For the granting of a further extension of Building Permit #5508, which will expire on July 14, 2011 and may not be further extended by the Building Inspector. (per Condition #1 of Resolution BA10-53)

Judith Reardon, attorney, and Milton Gregory Grew, architect, approached the Board. Ms. Reardon stated that her clients were present to request an extension of Building Permit #5508, as they were directed to return to the Board of Appeals if the work on their house was not finished. Ms. Reardon said considerable progress has been made, but there have been issues with the lender that have held things up.

Mr. Grew said he would address the 5 conditions in BA10-53 (most recent ZBA resolution extending the building permit).

*(The first condition in BA10-53 was that Building Permit #5508 be extended to July 14, 2011.)*

Regarding Condition #2 (posts and reflectors in the old driveway), Mr. Grew stated that the reflectors have been removed, but the posts belong to Westchester County and may not be removed.

Mrs. Amus stated that 4 posts belonging to her were removed, but the County snow-markers on either side of each driveway may not be moved.

To address Condition #3 in BA10-53, Mr. Grew said there had been 2 trucks on the property; one is gone, but the other is registered and insured to his clients/remains on the property.

Regarding Condition #5 Mr. Grew stated that the garage is still full of building material/there is no room for anything more/no room in the garage for the truck.

Adding to Mr. Grew's statement about the trucks, Mrs. Amus explained that one had been a contractor's truck that was temporarily disabled, and it has been removed. She said her truck is in the driveway now, and it is being used regularly. Mrs. Amus stated that the truck is licensed and insured.

Regarding Condition #4 (portable toilet on the property), Mr. Grew stated that it has been moved behind the house where it may not be seen from the road, and the one there now is brown like the house.

Returning to #5, Mr. Grew said getting material out of the garage is an on-going process. He stated that the only things stored outdoors now are a neat pile of natural stone and roofing slates and a dumpster. He added that there is no lumber, etc.

Mrs. Amus said they used to have 2, 20-yard containers but now there is just 1, 10-yard dumpster.

Chairman Ivanhoe asked if there is work being done inside the house, and Mr. Grew replied that there is.

The Chairman said that if there is a need for the dumpster, he does not object to it; his concern was that he has not noticed contractor's trucks on the property. If no work were being done, the Amuses could have the dumpster taken away until it is needed.

Ms. Reardon said issues with the lender have slowed things down to where the race is to see if the Amuses will self-fund the job before they get the rest of their bank loan.

Mr. Grew said that 7 items on the construction sequence list (developed with the Building Inspector last spring) had been accomplished in November with 3 in progress, and now 9 are done/5 are in progress. Mr. Grew pointed out that 2 items on the list require the cooperation of the County. Handing the Board members an updated construction sequence list, Mr. Grew stated that The Building Inspector will issue a Certificate of

Occupancy when all the items have been completed satisfactorily, and he informed the Board that the Assistant Building Inspector told him the insulation work had passed its recent inspection (item #4).

Mr. Reilly asked if Mr. Grew was saying 2 more items on the list have been completed since November.

Mr. Grew said that was correct.

Mr. Reilly asked Mr. Grew to list for the record the items completed.

*(Construction sequence list annotated by Mr. Grew and dated July 14, 2011 attached to end of meeting minutes. Checks indicate work completed or under way. Items 1 through 6 are done; 7 and 8 involve the County; 9, 12 and 14 are done.)*

Mr. Grew said drywall has been ordered (item #10) and the Amuses have signed with a company to do the gutters in 3 weeks (item #11).

Mrs. Amus said the contractor who will do the gutters is named Ed Burke of Dalcott Corp.

Re #13, material for the kitchen/baths has been purchased/delivered.

Mr. Grew stated that item #15 (handrails, guardrails and barriers) is in progress. He added that the guardrails and stairs are completed on the rear deck.

The Chairman noted that the tubs have been installed (item #21).

Mrs. Amus said the Building Inspector also requested landscaping work (silt fence removal, re-seeding, re-planting, etc.), which was done. She explained that much of the work/planting was lost to spring flooding and has been re-done. Ms. Amus said even the gravel of the driveway was lost/needed to be replaced after the flooding.

Mr. Monti said #3 and #18 sound the same.

Mr. Grew explained that #3 is wiring for smoke and carbon monoxide detectors, and #18 is finished/installed devices. He said the finished devices will go in after the sheetrock is installed.

Chairman Ivanhoe asked about the silt-fencing on the property.

Mrs. Amus stated that the Building Inspector asked that one section to the right in the front of the property be maintained. All other silt-fencing in the front has been removed, as well as a couple of trees. Per the Building Inspector's directions, only a small section of silt-fencing remains in the rear. Mrs. Amus stated that erosion from the spring storm ruined a lot that had been accomplished. She said a special gardener was brought in to re-stabilize the areas that washed away, and it took a long time to get special manhole covers that were needed. Mrs. Amus stated that bales of hay were employed to prevent people from

driving into a flood-created ditch. She said the driveway is complete now, adding that the lanterns have been installed on the tops of the driveway entrance pillars.

Mr. Grew distributed copies of a letter to the Board (Field Observations) that listed the completed items.

Mrs. Amus said that once the sheetrock is installed, material can be moved indoors. She said there is no place to put anything in the house right now, and the Assistant Building Inspector was recently upset to see items that had been moved to the second floor of the house. The Assistant Building Inspector required the items to be moved back down to the garage. Mrs. Amus said that once items are moved out of the garage, the truck will be parked there.

Mr. Monti commented that the situation has been going on for 3 years, and the Chairman asked if the public hearing was still open.

Mr. Reilly explained that, having been Noticed, this was a public hearing.

The Chairman opened the hearing up to public comment, and called on Manuel deVengoechea of 15 June Road.

Mr. deVengoechea said he understood the financing difficulties and has tried to be patient, but the issue has been going on for 6 years since the first building permit was issued. He asked how much longer it will take to complete the house. He said that if something could be done with the property it would help. He agreed with the Chairman that there were few signs of contractors on the property, for which reason he objected to the continuous presence of the container. He commented that the bank problem could go on for a long time.

Mr. deVengoechea stated that his daughter is to be married at home on August 13, and approximately 100 guests are expected. He asked if the Amus property could be cleaned up as much as possible and the container removed for the week of the wedding.

Chairman Ivanhoe asked what dates will be involved.

Mr. deVengoechea said from Friday, August 12 to Monday August 15.

The Chairman said he thought that would be reasonable, and he asked if the Amuses would have the dumpster removed from August 10 to August 16. He also asked if they could try to park the truck in the garage or take it away during the same time period.

Mr. deVengoechea said floodlights on the back of the Amus house are aimed at the window, creating multiple reflections shining in the direction of his house. He added that the lights are very bright.

Mrs. Amus offered to have the lights re-positioned not to aim at her windows.

The Chairman said the lights should be hooded or aimed downward also.

Mr. deVengoechea suggested motion sensors.

Mr. Reilly asked if the Board wants the floodlights changed by August 10, and the Chairman said that was correct.

Chairman Ivanhoe asked about employing motion-sensors, but Mr. Amus objected.

Mrs. Amus said the lights are hard-wired right now. Once the sheetrock is installed the complete electrical system will be in and can be regulated.

Ms. McKean commented that it is not necessary for the lights to be on all night.

Mrs. Amus explained that they are not covered by insurance for any losses because they do not occupy the house, so the lights are on because the property has been robbed more than once. She said she will speak to her electrician about re-positioning the lights.

Mr. Reilly pointed out that the Board was making it a condition of the resolution that the lights be covered/concealed at their source.

The Chairman said he understood the Amuses' predicament, but he didn't think the floodlights need to be on all night.

Mrs. Amus asked if the Board would accept motion-sensors on the lights, but Mr. Amus refused this option.

The Chairman reminded Mr. Amus that he was present to request an extension of his building permit.

Mr. Amus said he has been robbed and the lights are his only protection against future robberies. He said he has gotten no help from either his insurance company or the police.

Ms. Reardon said the Board was asking that the lights be covered at their source so their bulbs will not be visible.

Mr. Amus stated that there are cones on the lights already.

Mr. Grew said the lights merely need to be re-angled to shine downward.

Mrs. Amus said that was what she had wanted in the first place.

Ms. Reardon assured the Board that compliance will not be a problem.

Mrs. Amus commented that lights on the building across the street are left on all night, but the Chairman said nothing much could be done about a government building (US Post Office).

Chairman Ivanhoe said the Board was concerned about security of the Amuses' house, but it is reasonable to think of their neighbor also, and he asked why the lights are aimed at the window.

Mr. Grew said the lights were not intended to be aimed at the window, and they will be re-positioned.

Mr. deVengoechea brought up the spring flooding, saying he had done what he could to channel the water flow on his property. He said he spoke to the Building Inspector, who told him there is nothing that can be done about the problem because the area is in a flood plain.

The Chairman said the drainage situation was not an issue for the Board of Appeals.

Mr. deVengoechea said he brought the subject up because the Amuses placed hay bales next to his new fence in order to try and protect their property, and he fears this will cause the water to back up/not run its natural course.

Mr. Reilly asked if these were the hay bales the Building Inspection said should be placed on the property, and Mrs. Amus said they are.

Mr. Reilly said Mr. deVengoechea should speak to the Building Inspector about that.

Addressing Ms. Reardon, Mr. Monti noted that she had expressed frustration with the banks, and he asked what the chances are that the construction financing will be resolved.

Ms. Reardon stated that considering the time frame and the presence of government micro-managing, the difficulty of dealing with this type of loan has been that the Amuses have not been able to find anyone to address the issues. Ms. Reardon said that what may happen is that construction will be completed via self-funding, resulting in the issuance of a Certificate of Occupancy, at which point they will move against the bank as opposed to the bank moving against her clients. At that time, it may make more sense to the bank to resolve the issue than leave it open.

Ms. Reardon explained the loan was supposed to be a construction-to-permanent financing program, which type of loan was then abolished before the lender went under. As batches of loans were transferred to other lenders, this loan would have been in a batch of loans that were "odd and irregular" which does not fall into any of the programs currently being administered or within any current regulations or legislation. Once a Certificate of Occupancy is issued, the matter will be subject to court-ordered resolution.

Mr. Monti said the reason he asked the question is that he doesn't want to see the Amuses forced to return to the Board of Appeals again in another 6 months if in 9 months they will not be under torture by the bank.

Mr. Reilly said he thought Ms. Reardon was saying was that the Amuses are going to have to pay for the job themselves.

Ms. Reardon concurred, adding that it's what they have been doing.

Mr. Reilly said Mr. Monti wanted to know what would be a reasonable length of time at the end of which the Amuses will satisfy the construction sequence list drawn up by Mr. Grew and Mr. Thompson.

Mr. Monti said that was correct, and he asked how long the Amuses need.

Ms. Reardon said her clients had proposed 9 months but, to err on the side of caution, she would ask that they be given one year. Ms. Reardon added that it behooves her clients to get the Certificate of Occupancy as soon as possible, and also to dispose of the lender as soon as possible rather than be stuck with a project so close to completion that some lender has to figure out what to do with it next.

Mr. Monti asked if Ms. Reardon was saying that pessimistically the work could be finished in 12 months, or optimistically completed in 9 months, and Ms. Reardon said that was correct.

Mr. Monti reiterated that he did not want to see the Amuses need to return to the Board again in another 6 months.

Mr. Reilly noted that 2 additional things have been completed in 6 months/progress has been slow, and he asked if they can finish the job by financing the work themselves in 9 to 12 months.

Ms. Reardon stated that her clients have said they can.

Mr. Reilly suggested to the Chairman that the Board grant the extension for 12 months, with the stipulation that the applicants review the construction sequence list with Mr. Thompson in 6 months. If the Building Inspector is not satisfied with their progress, the Amuses would have to return to the ZBA after 6 months.

Ms. McKean asked why, if the Amuses are self-financing and all the fixtures have been purchased, the interior work has not been done.

Ms. Reardon explained that her clients have been faced with the need to come up with cash to pay contractors. She said there are no mechanics liens on the property and the Amuses want to make sure there are none, so they have had to be able to pay as they go. The lender has said they want a C/O before they advance any funds, but the Amuses cannot proceed with construction/get a C/O without funds to pay contractors.

Ms. McKean said it sounds like a Catch-22 with the lender.

Ms. Reardon said she did not want to go into great detail about the problems with the lenders.

Mr. Reilly said the Amuses have stated that, given 12 months, they will be able to complete the work by financing all of it themselves.

The Chairman said there will also be a review with the Building Inspector at the 6-month point.

Ms. Reardon asked if Mr. Thompson will forward correspondence confirming his assessment to the Board, and Mr. Reilly said Mr. Thompson will do that.

Mrs. Amus asked if the review will be conducted by the architect and the Building Inspector, and the Chairman said that was right.

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

Mr. Reilly read a draft resolution including the following conditions:

1. There will be no dumpster and no trucks parked on the property from August 10 to August 16, 2011. A truck/trucks may be housed in the garage if there is room.
2. The floodlights mounted on the rear of the house will be covered at their sources so they do not reflect on the window.
3. The property will continue to be maintained as has been agreed to in all extensions of Building Permit #5508 to-date.
4. The building permit will be extended to July 14, 2012. On January 16, 2012 the architect will report to the Building Inspector/Assistant Building Inspector regarding the completion of the items on the construction sequence list (9 items completed thus far out of 25).

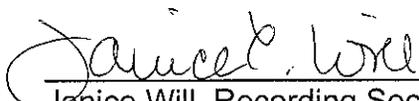
**Motion by:** William Monti  
**Seconded by:** Cynthia McKean

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

***Building Permit extension granted, as requested, with specific conditions per discussion and agreement.***

All agenda items having been covered, the Chairman closed the meeting.

Respectfully submitted,

  
Janice Will, Recording Secretary

MARKUP FOR ZBA MTG 7/14/2011 BY M.G. GREW  
PROJECT: AMUS RESIDENCE  
27 June Rd, North Salem, NY

DATE: March 1, 2010  
Revised May 13, 2010 (per mtg w/ Bldg Insp 03/02/10)  
Revised June 9, 2010 (per email comments from Bldg Insp 06/09/2010)

SEQUENCE OF CONTRUCTION TOWARD CERTIFICATE OF OCCUPANCY

- ✓ 1. Complete insulation
- ✓ 2. Check for moisture and fireblocking.
- ✓ 3. Check installation of smoke & carbon monoxide detectors and their interconnection.
- ✓ 4. Insulation inspection and approval for drywall.
- ✓ 5. Obtain paperwork from county health dept confirming filing of septic repair work.
- ✓ 6. Reduce soil stockpile by grading rear area per grading site plan, including topsoil, finish grading and seeding.
- ✓ 7. Remove old driveway culvert and curb cut. Finish grading and seeding. COUNTY
8. Obtain county approval of drives and transmit to bldg dept.
- ✓ 9. Install FSK facing where insulation will be left exposed.
10. Install drywall and tape joints and at least one coat of compound. MATERIAL ORDERED
11. Install roof gutters and downspouts and connect to underground drainage piping. GETTING BIDS
- ✓ 12. Finish driveway.
13. Install sealed floors for kitchen and baths. MATERIAL PURCHASED & STORED AT HOUSE.
- ✓ 14. Establish plantings and any remaining lawn near wetlands to allow removal of silt fence. Include any/all plantings per wetlands permit (see #6 above).
15. Install guardrails, handrails and barriers. PARTIAL
16. Provide surveyor's as-built map of drainage with elevations and inverts.
17. Obtain letter from Bibbo Assoc confirming acceptable completion of site work.
18. Install electrical trim and finish devices, smoke & CO detectors, and smoke detector in home theater.
19. Install cabinets, vanities and counters in kitchen and baths.
20. Electrical final inspection by Town approved Electrical Inspection Company (1 of 3), making sure that it is the same one that performed the Electrical Rough Inspection prior to closing walls & ceilings.
21. Install plumbing fixtures and fittings (Verify installation of gas range shut-off). TUBS INSTALLED
22. Start up, test and balance heating system.
23. Submit affidavit of final cost.
24. Architect to provide certificate of compliance.
25. Final Inspection by Building Department; will include test of the fire detection system and confirmation that the correct device (i.e., smoke, CO & heat) are in all the required locations and that same are interconnected and operational.