

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

**MEMBERS PRESENT:** Richard O'Leary  
Cynthia McKean  
William Monti  
James Murphy

**MEMBER ABSENT:** Brian Ivanhoe, Chairman

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

***Acting Chairman William Monti called the September 8, 2011 Town of North Salem Zoning Board of Appeals meeting to order.***

Mr. Monti announced that there will be a September 11 memorial ceremony at the firehouse on Titicus Road on Sunday, September 11 at 3 pm.

Mr. Monti set the next meeting for Thursday, October 13, 2011.

The minutes of the August 11, 2011 hearing with unanimously approved.

**PUBLIC HEARINGS:**

**BA11-32** Martin Sheehy (19 Lakeside Drive) – **Area Variance** – To decrease the minimum combined side yard and rear 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 combined side yard variance of 10 ft. (40 ft. required; 30 ft. existing) and a rear yard variance of 11 ft. (35 ft. required; 24.6 ft. existing) are requested to allow a single-family residence with deck to remain as constructed.

Sheila Sheehy was present. She explained that her husband, Martin, could not attend the meeting. Mrs. Sheehy said she had nothing to add to the information contained in the application.

Noting there were no questions or comments, Mr. Monti closed the public hearing.

After confirming that the applicants had the approval of the Bloomerside Co-op Board, Gerald Reilly read a draft resolution.

Cindy McKean noted that a two-year building permit extension ran out in 2002 and asked what happened.

Bruce Thompson explained that there used to be many long-expired building permits in Town, and in 2009 a one-year amnesty was announced to give people a chance to close out their permits. (*Effective since 2010, there is now a \$1500 penalty for expired building permits or for legalization of construction done without a permit.*) When the Sheehys came in to the Building Department to close out their permit, it was discovered that they had amended it to enlarge the deck. The Sheehys had been granted an area variance for construction of the house and deck, but because the deck was enlarged and changed from the one in the plans submitted in that area variance application, the Sheehys need a completely new variance.

**Motion by:** Richard O’Leary  
**Seconded by:** James Murphy

**Mr. O’Leary:** Aye  
**Ms. McKean:** Aye  
**Mr. Monti:** Aye  
**Mr. Murphy:** Aye

**Area variance granted, as requested.**

**BA11-33** Nancy Dellamonte (98 Peach Hill Road – **Area Variance** – To decrease the minimum rear yard setback 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 rear yard variance of 34 ft. is requested (35 ft. required; 1 ft. existing) to permit a patio/hot tub to remain as built.

Nancy Dellamonte had nothing to add to the information in her application.

There were no questions or comments, and Mr. Monti closed the public hearing.

**Motion by:** Cynthia McKean  
**Seconded by:** Richard O’Leary

**Mr. O’Leary:** Aye  
**Ms. McKean:** Aye  
**Mr. Monti:** Aye  
**Mr. Murphy:** Aye

**Area variance granted, as requested.**

**BA11-34** Caroline and Daniel MacNamee (35 Dingle Ridge 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 15 ft. is requested (75 ft. required 60.5 ft. proposed) for construction of a detached 2-car garage.

Daniel MacNamee addressed the Board, stating that he submitted plans for a garage with similar setbacks in 2001, although the new plans are for a smaller, 2-car garage (1400-1500 sq. ft. in 2001 vs. 1080 sq. ft. now) He showed the Board a photograph of what the new garage will look like. He explained that because he never applied for a building permit, the 2001 variance expired.

Mr. Thompson added that a variance will expire in 36 months if no building permit has been issued. He asked if Mr. MacNamee staked out the outline of the garage.

Mr. MacNamee said he just marked the corners.

Mr. O'Leary commented that the garage in the photograph looks exactly like the one in Mr. MacNamee's plans.

Mr. MacNamee said when he saw the photograph of the garage, he asked his architect to design one just like it.

Noting there were no further questions, Mr. Monti closed the public hearing.

Mr. Reilly read a draft resolution, including the finding that approval was given in the past for a larger garage which was never constructed.

**Motion by:** James Murphy  
**Seconded by:** Cynthia McKean

**Mr. O'Leary:** Aye  
**Ms. McKean:** Aye  
**Mr. Monti:** Aye  
**Mr. Murphy:** Aye

**Area variance granted, as requested.**

**BA11-35** North Salem Brothers Realty, LLC (58-62 June Road) – **Area Variance** – To permit installation of a sign per Article IV Section 250-11 and -12. A variance is requested for installation of a new/larger free-standing sign (18 sq. ft.) to replace an existing non-conforming sign (13.74 sq. ft.).

Mr. Monti stated that the Board was in receipt of a referral from the Planning Board asking the Board of Appeals to look favorably on the application.

Mr. O'Leary commented that it looks on the submitted drawing as though 2 signs are proposed.

Roger Nitkin of North Salem Brothers Realty, LLC asked to explain from the beginning. He stated that he approached the Town in 1998 about replacing the existing sign with one including the tenants' businesses. At that time, he was also trying to go forward with plans to construct the smaller building now present to the left of the Post Office. The 2 items were part of the same Planning Board application, which was not approved until 2006. At

the time of the 2006 approval, plans were to erect 2, 36 sq. ft. signs; one near the entrance to the property, and one close to Titicus Road. Time passed and M & T Bank (one of the tenants) said they would only renew their lease if they could have a sign. Mr. Nitkin informed the Planning Board of this development, and he was told that he would have to go through the sign-approval process again. This time, he was asked to have a smaller sign and only one. He showed the Board a drawing of the proposed sign.

Mr. O'Leary asked where the sign will be installed, and Mr. Nitkin said the posts are already up, facing June Road, mid-way between the property entrance and Titicus Road.

Mr. Nitkin explained that he needs a variance because he seeks to replace a non-conforming sign with a larger one, including the street address which is now required.

Mr. Monti asked if the new sign will be adequate.

Mr. Nitkin said he would have liked a larger one, but the Planning Board-approved sign will suffice.

Ms. McKean expressed hope that, now that the new sign will include tenant information, there will be no more other signs and placards on the property.

Mr. Nitkin said there will be no other signs.

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

Mr. Reilly read a draft resolution, noting that the sign and its location will be subject to approval by the Planning Board and that the Planning Board presented a positive recommendation to the Board of Appeals regarding the application.

**Motion by:** *Cynthia McKean*  
**Seconded by:** *Richard O'Leary*

**Mr. O'Leary:** *Aye*  
**Ms. McKean:** *Aye*  
**Mr. Monti:** *Aye*  
**Mr. Murphy:** *Aye*

***Area variance granted, as requested.***

**BA11-36** Carol Goldberg (22 Wallace Road) – **Area Variance** – To decrease the minimum front yard setback in an R-4 zoning district per Article V Section 250-15. A front yard variance of 65 ft. is requested (75 ft. required; 10 ft. proposed) for installation of an underground LP storage tank.

Ms. Goldberg addressed the Board, stating that she wants to have the storage tank in the proposed location because there are no neighbors there, and the exposed cap will be concealed by a stone wall and existing trees. She added that the location will provide easy access for fuel delivery trucks as well.

Mr. Murphy asked if the tank will be far enough way from the house to be safe.

Ms. Goldberg replied that it will be quite far from the house, and the generator will be in one of the paddocks/setback requirements will not be an issue.

Mr. O'Leary expressed doubt that 250 gallons of fuel would be sufficient.

Ms. Goldberg said her contractor stated that 250 gallons should last a week, but the fuel company will come and top off the tank if needed.

Mr. O'Leary stated that Brian Ivanhoe had noted that generator locations had some impact on people over the past week, noting that they should not be near windows.

Ms. Goldberg said her generator will be a good distance from her house.

Mr. Monti closed the public hearing.

Mr. Reilly read a draft resolution, including the finding that the proposed location is the most inconspicuous site on the property for the storage tank.

**Motion by:** James Murphy  
**Seconded by:** Cynthia McKean

**Mr. O'Leary:** Aye  
**Ms. McKean:** Aye  
**Mr. Monti:** Aye  
**Mr. Murphy:** Aye

Mr. Thompson stated that he had not realized previously that underground storage tanks are considered structures, for which reason they must meet setback requirements. He said he plans to ask the Town Board to reconsider, so it will not be necessary to get variances for underground tanks. Mr. Thompson said that because he had been unaware of this requirement in the past, permits were issued for underground tanks without consideration of zoning requirements; Ms. Goldberg's permit application was the first one to come up since he learned of the need to meet setback requirements.

Mr. O'Leary asked if such tanks are not to be considered structures/do not need to meet zoning requirements, what other requirements are there.

Mr. Thompson said the New York State Building Code requires that fuel storage tanks be at least 10 ft. from property lines.

Mr. Monti asked if a recent application for a property on Lost Pond Lane shouldn't have had to include setbacks for the fuel tank for generator, and Mr. Thompson responded that it is an example of one that he missed.

*The following 2 applications were discussed together.*

**BA11-37** Jennifer and Michael Esposito (31 Quaker Road) – **Special Permit** – For the conversion of the second floor of an existing barn to an accessory apartment per Article XIII Section 250-68.

**BA11-38** Jennifer and Michael Esposito (31 Quaker Road) – **Special Permit** – For the keeping of up to 4 horses for personal use, including construction of a barn, riding ring and paddock fencing, per Article XIII Section 250-72.

Present were David Sessions of Kellard Sessions Consulting, Gary Gianfrancesco (architect), and Michael Esposito.

Displaying a site plan, Mr. Sessions stated that the subject property is at the corner of Quaker and June Roads, consisting of approximately 15.6 acres. He explained that in the 1980's, the property was subdivided into lots of 5.7 acres and 9.8 acres, respectively. He pointed out wetlands on the property. Mr. Sessions said a house, barn, septic and well, pool and tennis court were built on the smaller lot. His clients' application to merge the 2 lots was approved by the Planning Board on September 7. He pointed out a conservation easement which he said his client will maintain/respect.

Mr. Sessions stated that his client was making application for 2 special permits; one to convert the second floor of an existing barn to a one-bedroom apartment, and one to build a 720 sq. ft. barn for up to 4 horses. Mr. Sessions stated that they will also be building a greenhouse, chicken coop and a gazebo, and a separate septic system and well for the apartment. He pointed out paddock fencing to be built also.

Mr. Sessions explained that the manure dumpster is to be placed on the south side of the new barn, approximately 61 ft. from the front property line. He noted that without the lot merger, the new barn would straddle the 2 separate lots.

Mr. Murphy asked if the manure dumpster is part of the application.

Mr. Sessions said he thought it was incidental to the application, but Mr. Thompson said it is part of the application. He explained that a manure dumpster is considered a dust-producing activity, for which a setback of 100 ft. is required in an R-2 zoning district, but the Board may reduce the setback to the minimum for the district (50 ft.) as part of the granting of a special permit.

Mr. Murphy asked if there would be any danger to the new well caused by the dumpster's location.

Mr. Sessions said there will be no danger because the dumpster is far enough away from the new well. He added that although a 10 ft. x 20 ft. concrete pad for the dumpster is indicated, it will probably be smaller.

Mr. Reilly asked if, given the size of the property, R-4 setbacks wouldn't be required, but the Building Inspector said the property need only meet the setback requirements for the zoning district in which is it located.

Ms. McKean said she assumed there would be no paddock fencing within the conservation easement, and Mr. Sessions said that was correct.

Mr. Monti commented that the proposed manure dumpster location will be convenient for trucks.

Mr. Sessions said that was correct, as the driveway is to be altered a little so it will go to the new barn.

Mr. Monti asked if any thought has been given to screening the dumpster from view.

Mr. Sessions said it has not been considered so far, but he could talk to Mr. Esposito about it. He stated that there are some evergreen trees along the road. Mr. Sessions asked his client if he would agree to have more trees planted, and Mr. Esposito said he would.

Mr. Reilly pointed out that the Board may require screening as a condition of granting the special permit, as they are reducing the front setback for the dumpster.

Mr. O'Leary asked if the new barn will also tie in to the new septic system.

Mr. Sessions said the wash stall in the new barn and the apartment in the existing barn will share the new septic system and well, keeping the existing residence separate in its use of the existing well and septic system.

Mr. O'Leary asked if there is a separation requirement between the new well and the dumpster site, and Mr. Sessions replied that it is 100 ft.

Mr. O'Leary commented that the well on the submitted plan appears to be much closer to the dumpster than 100 ft.

Ms. McKean asked if there will be a bathroom in the new barn.

Mr. Gianfrancesco said there is no bathroom planned, but the new septic could accommodate a bathroom in the barn.

Mr. Sessions explained that the septic system is over-sized. As the barn will be for private use/no members of the public will use it, it would not require a larger septic system. He said all the necessary Department of Health testing has been done, and they are awaiting final approval.

Mr. Monti asked if the DOH would make it a condition of the approval that no bathroom may be built in the new barn.

Mr. Sessions said he discussed the possibility with the Department of Health, and there will be no condition preventing construction of a bathroom.

Mr. Monti asked what the first floor of the existing barn is to be used for.

Mr. Gianfrancesco said it will continue to be used for household storage.

Mr. Monti asked what the Building Code requirements are regarding apartment above storage areas.

The Building Inspector stated that, under the NYS Residential Building Code, the first floor may be used for storage, including motor vehicles; the only issue would be if repair work is to be conducted in the barn. As proposed (storage on the first floor of the barn), only a one-hour fire separation between the first floor and apartment is required.

Mr. Monti asked if there is any fire protection for animals in the barn now.

Mr. Gianfrancesco stated that there are no horses on the property now.

Mr. Monti commented that if the applicants were to change the use of the building back to a barn for horses, it would be a problem.

Mr. Gianfrancesco said he did not think the building was ever intended for use as a barn for animals.

The Building Inspector added that the applicant would need a new special permit if they were to add more horses, so the issue would be raised then.

Noting there were no further questions or comments, Mr. Monti closed the public hearing of BA11-37.

Mr. Reilly read a draft resolution for BA11-37 (accessory apartment), noting that the apartment will consist of approximately 660 sq. ft. and the applicants must reside on the property.

Mr. Monti asked if the apartment will be used by a family member or caretaker, and Mr. Esposito answered that it will be for a caretaker.

**Motion by: Cynthia McKean**

**Seconded by: James Murphy**

**Mr. O'Leary: Aye**

**Ms. McKean: Aye**

**Mr. Monti: Aye**

**Mr. Murphy: Aye**

**Special permit granted as requested.**

*(Continued discussion of BA11-38/keeping of up to 4 horses for personal use follows.)*

Mr. Sessions said the 720 sq. ft. barn will have a manure dumpster on its south side, both accommodated by a slight change in the driveway. He stated that his client will have evergreens planted to screen the dumpster and reiterated that the new well and septic system will accommodate both the new accessory apartment and a wash stall in the new barn.

Looking at the submitted drawing, Mr. Murphy asked where the wash stall will be.

Mr. Sessions said it is not specified on the plans, but the tack room or part of one of the stalls may be used.

Ms. McKean asked how the tack room could be used as a wash stall, and Mr. Sessions responded that one stall might be split to use half as a tack area and half as a wash area.

There were no further questions and Mr. Monti closed the public hearing.

Mr. Reilly read a draft resolution, noting that the Board was waiving the 100 ft. front yard setback requirement for the manure dumpster on the condition that evergreen trees be planted to screen it.

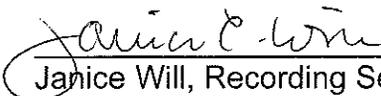
**Motion by:**            **Richard O'Leary**  
**Seconded by:**        **Cynthia McKean**

**Mr. O'Leary:**        **Aye**  
**Ms. McKean:**       **Aye**  
**Mr. Monti:**         **Aye**  
**Mr. Murphy:**       **Aye**

**Special permit granted, as requested, with specific condition per discussion and agreement.**

Mr. Monti closed the meeting at approximately 8:50 pm.

Respectfully submitted,

  
\_\_\_\_\_  
Janice Will, Recording Secretary