

**Town of North Salem  
BOARD of APPEALS  
Public Hearing  
November 10, 2011  
8 p.m., The Annex**

**MEMBERS PRESENT:** Richard O'Leary  
Cynthia McKean  
James Murphy  
Brian Ivanhoe, Chairman

**MEMBERS ABSENT:** William Monti

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

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

The minutes of the October 13, 2011 meeting were unanimously accepted.

The Chairman set the next meeting for Thursday, December 8, 2011.

**PUBLIC HEARINGS**

**BA11-41** Titicus Road Commons LLC (104 Titicus Road) – **Special Permit** – For the maintenance of an accessory apartment above a commercial establishment, per Article XIII Section 250-77.2.

Michael Sirignano stated that he was presenting an application for a Special Permit for 104 Titicus Road. Displaying a site plan of existing conditions on the subject property, he pointed out a house at the front of the lot (built circa 1906) and a second building to the rear (built circa 1915) which is the building the special permit application pertains to. He stated that there is a provision in Article XIII of the Zoning Ordinance, Section 250-77.2, which permits accessory apartments above commercial establishments.

Mr. Sirignano explained that the first floor of the subject building has a 561-sq. ft. office accessed by a direct door. On the second floor, the previous owner or his tenant created a 1-bedroom apartment and a studio apartment. The same person also turned the first floor of the front building into 2 apartments (only 1 is permitted on each floor), which Mr. Sirignano has corrected since taking title to the property in 2004. Mr. Sirignano said the conversion of the second floor of the rear building was all done without Building Permits. To utilize the space and provide affordable housing, he stated that he wishes to remove one kitchen and create a single 2-bedroom apartment on the second floor. He stated that per Section 250.77.2, all qualifying buildings must set aside some office/commercial

space; apartments must have at least 500 sq. ft.; and apartment square footage may not exceed 2 times the square footage of the commercial space. Mr. Sirignano said the 561 sq. foot office and 1116 sq. ft. apartment will meet this standard; if the Board approves the Special Permit, he will go to the Planning Board for site plan approval for the accessory apartment and the office below.

The Chairman asked if the floor plans show existing conditions.

Mr. Sirignano said that was what the Building Inspector wanted, so he hired an architect to do the drawings/measurements.

Chairman Ivanhoe asked if there will be any exterior upgrades or changes to the footprint of the building.

Mr. Sirignano said there will not be any changes to the building or parking area; only a kitchen will be removed.

The Chairman said the ZBA would not object to certain improvements/changes to either the property or the building.

Mr. Sirignano said the Planning Board may require changes, but he would be happy to hear the ZBA's comments as well.

The Building Inspector, Bruce Thompson, pointed out that there is an existing apartment on the first floor of the subject building which was approved by a past Resolution of the ZBA and is legal.

Mr. Sirignano said it was actually a use variance that was granted in 1971 for the apartment.

Cindy McKean asked if the first floor apartment is separate from the commercial area, and Mr. Thompson replied that it is.

Chairman Ivanhoe asked if the Planning Board will look at sight-lines on the driveway, and Mr. Sirignano responded that they will.

The Chairman said there is a shrub on the west side of the property that interferes with the sight-line/view of eastbound traffic.

Mr. Sirignano said the shrub is not even particularly nice and offered to have it removed.

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

Mr. Thompson stated that if the Board comes to a conclusion about the application, Gerald Reilly, counsel to the Board, will work from the meeting minutes to draft a resolution.

Rick O'Leary asked what Mr. Sirignano needs from the Planning Board.

Mr. Thompson explained that the office/commercial use requires site plan approval because the area was formerly used as a carpenter's shop.

Mr. O'Leary asked what the space is being used for now.

Mr. Sirignano stated that all 3 spaces in the subject building are currently vacant. He said that Section 250-77.2, D also requires Planning Board site plan approval for accessory apartments above commercial establishments.

Mr. O'Leary asked if it will be a Planning Board special permit approval for the commercial space that is specific to the current owner or if it will run with the deed.

Mr. Sirignano said he must go to the Planning Board for site plan approval (not a special permit), and that would run with the land.

The Building Inspector said a new owner would need to return to the Planning Board if they were to change the commercial use.

The Chairman wondered aloud whether the special permit for the accessory apartment will run with the land or not.

Mr. Sirignano said the Zoning Ordinance does not state that such special permits expire upon transfer of title, but he supposed the Board could make that a condition.

Mr. O'Leary said he thought variances were permanent but special permits expired on transfer.

Chairman Ivanhoe said special permits for accessory apartments usually run with the land.

Mr. Thompson agreed, adding that only in very rare circumstances has he known of special permits for accessory apartments to expire. He added that special permits for the keeping of horses always expire after 10 years or upon transfer of ownership.

Mr. Sirignano said he hoped to start the Planning Board process and asked if he could get something from the Board that would enable him to take the next step.

The Chairman noted that they would not have a draft resolution read, but the Board could vote on the application.

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

Mr. O'Leary asked if the special permit will be specific to the 1-bedroom and studio apartments or the new 2-bedroom apartment.

Chairman Ivanhoe said it will be specific to what is described in the application; namely a 2-bedroom apartment.

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

***Special permit granted, as requested.***

**BA11-42 H. Grimaud (104 Delancey Road) – Special Permit** – For the keeping of up to 4 horses and maintenance of a commercial boarding operation per Article XIII Section 250-72, including repair/replacement of paddock fencing and construction of an open shed addition to an existing 4-stall barn.

David Barbuti, architect, was present for the applicant. He explained that the subject property consists of approximately 5.75 acres with an existing barn, and a previous owner of the property had a special permit for the keeping of 4 horses. There are also a single-family dwelling and a small garage on the property. Mr. Barbuti said he proposes to add run-in sheds at either end of the 1000 sq. ft. barn, add a small paddock area and relocate some existing paddock fencing.

Mr. Barbuti also explained that, despite the description in the agenda and on the application, the special permit request is actually for 4 horses for personal use only/his client does not wish to board horses.

The Chairman asked Mr. Thompson if it would be necessary for Mr. Barbuti to submit a revised application.

Mr. Thompson stated that Gerald Reilly has always considered that if the amended request is for something less than what has been Noticed, the existing application may be accepted.

Chairman Ivanhoe said the Board would consider the application to be for 4 horses for personal use.

Ms. McKean commented that she had had more questions when she thought the application was for a commercial boarding operation. She did note, however, that the existing dumpster pad is in a difficult location/the driveway is very steep. She said she had trouble getting her own small car in/out, so she didn't see how trucks could get in to pick up manure dumpsters or deliver hay by way of the little side driveway.

Mr. Barbuti agreed that it is a difficult driveway, but Alan Keeley will be helping to run the farm, and he has assured the applicant that his trucks will be able to maneuver to get hay/shavings in and manure off the property.

The Chairman noted that the property was used to keep horses previously, but he also agreed with Ms McKean that the driveway is tricky.

Ms. McKean said it is also dangerous, because there is sort of a blind curve right at the bottom of the driveway/the sight-line is poor. She said some of the problem may be due to trees downed by the recent storm.

The Chairman said sight-lines are important, but he hadn't noticed if anything needs to be trimmed.

Mr. Murphy said there was a large part of a tree still down when he went to look at the site.

Chairman Ivanhoe asked Mr. Barbuti if there are plans to remove it.

Mr. Barbuti replied that he was not sure where it is/he has not been to the property since before the storm. He agreed that the sight-line is not ideal, although the driveway to the house is worse.

Jim Murphy disagreed, saying that when he went to look at the site he mistakenly pulled into the driveway leading to the house, and he had no trouble getting in/out; the other driveway seemed to have a problem with a downed tree limb. He agreed that the driveway is very steep.

Chairman Ivanhoe asked if the tree is on the applicant's property.

Ms. McKean said it is between the house and the secondary driveway.

The Chairman said the Board would ask that the tree be removed/all sight lines are clear.

Mr. Barbuti agreed, adding that a tree specialist will be coming to do some trimming, etc. who can remove the downed tree.

Mr. Thompson noted that the site plan shows an expanded paddock area, and there is a note stating that all trees along the front property line going back 20 ft. to the fence will be left to provide a buffer area.

The Chairman commented that there is also a note about clearing trees farther back on the property.

Mr. Barbuti said he thinks there will be some clearing of trees in the front also.

Ms. McKean indicating the description "gravel drive" on the site plan, she asked if it means that a gravel drive is to be created. She explained that there is no gravel at present/the drive is completely over-grown.

Mr. Barbuti said the wording was taken directly from a survey used to create the site plan.

The Building Inspector pointed out that the existing dumpster pad cannot be approved because it is less than 75 ft. from the front property line. He explained that a manure dumpster is supposed to be 150 ft. from any property lines, and the ZBA may only reduce

the setback to 75 ft. as part of the granting of a special permit. In its current location, the dumpster pad would require an area variance.

Ms. McKean said the location makes no sense any way, as it is too far from the barn.

Mr. Barbuti said a site closer to the barn had been considered, but it was a more difficult area for access by a truck.

Chairman Ivanhoe asked what size dumpster will be employed, and Mr. Barbuti answered that it will probably be a 10-yard dumpster.

Mr. Barbuti asked if the Board would approve the special permit application with a condition that the dumpster must be moved out of the required setback or application will be made for an area variance.

Ms. McKean said the gravel drive really needs to be restored so that trucks may get in/out for deliveries/manure pick-up.

Mr. Barbuti said he will ask Mr. Keeley about a better location for the dumpster.

The Chairman commented that it would make more sense to have it closer to the barn.

Mr. Murphy pointed out that 75 ft. from the front property line would be half way up the driveway.

There were no further questions, and the Chairman closed the public hearing. He said the Board would vote on a resolution for the keeping of up to 4 horses for personal use with the condition that either the dumpster will be moved outside the required setback or application will be made for an area variance.

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

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

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

**BA11-43** John D'Alessandro (262 Post Road) – **Area Variance** – To permit a pool shed to remain as constructed, per Article V Section 250-15 and Article XIV Section 250-79 (A) (because the non-conforming lot is subject to R-2 bulk requirements). A side yard setback variance of 3 ft. is requested (30 ft. required; 27.9 ft. existing/proposed).

Chairman Ivanhoe called on Stephen Bisignano who was present in John D'Alessandro's behalf.

Mr. Bisignano explained that Mr. D'Alessandro was in Florida recuperating from a serious illness.

Chairman Ivanhoe asked Mr. Bisignano to explain the application.

Mr. Bisignano said he thought Mr. D'Alessandro hadn't known when he developed his property 30 years ago that the pool shed was not in compliance, and no one ever complained.

The Chairman said he noticed that a tree had come down on a shed on the property, but he did not know if it was the pool shed.

Mr. Bisignano said he had not been over to the property since the big storm.

Mr. Murphy showed the Chairman the site plan with a barn toward the rear of the property and the pool shed near to the side line.

Chairman Ivanhoe said maybe it had been just a branch that fell on the shed.

Mr. Murphy said it seemed as though someone had moved the branch, because it was not on the shed when he went to look at the site.

Mr. O'Leary asked if everything on the survey has been there for 30 years, and Mr. Bisignano said he thought so.

Mr. O'Leary asked if there were any comments from neighbors, and the Chairman said the Board had not received any letters about the application.

Noting there were no further questions, the Chairman closed the public hearing. He said there would be a resolution from Mr. Reilly granting the side yard setback variance for the pool shed.

**Motion by: Richard O'Leary**

**Seconded by: James Murphy**

**Mr. O'Leary: Aye**

**Ms. McKean: Aye**

**Mr. Murphy: Aye**

**Chairman: Aye**

**Area variance granted, as requested.**

All agenda items having been covered, the meeting was adjourned.

Respectfully submitted,

  
Janice Will, Recording Secretary