

BOARD of APPEALS
Public Hearing
July 12, 2012
8 p.m., The Annex

MEMBERS PRESENT: Cynthia McKean
James Murphy
Brian Ivanhoe, Chairman

MEMBERS ABSENT: Richard O'Leary
William Monti

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

Chairman Brian Ivanhoe called the July 12, 2012 Town of North Salem Zoning Board of Appeals meeting to order.

The Chairman set the next meeting for Thursday, August 9, 2012.

The minutes of the June 14, 2012 meeting were unanimously accepted.

Chairman Ivanhoe called for a motion to change the time of future Board of Appeals hearings from 8 to 7:30 pm.

Motion by: Cynthia McKean
Seconded by: James Murphy

Ms. McKean: Aye
Mr. Murphy: Aye
Chairman: Aye

Meeting time changed to 7:30 pm.

HEARING CONTINUED:

1. **BA12-09** Titicus Road Commons LLC (104 Titicus Road) – **Area Variance** – To allow continued use of an existing non-conforming driveway for a non-residential use (12 ft. required; 9 ft.-existing/proposed), per Article VIII Section 250-30A.

The Chairman announced that this application would be held over again.

PUBLIC HEARINGS:

BA12-27 – Joel S. Ehrenkranz (131 Keeler Lane) – **Special Permit** – For the maintenance of an accessory apartment in a secondary structure (barn), per Article XIII Section 250-68.

Jeffrey DeRosa, Surveyor, was present for Mr. Ehrenkranz. Mr. DeRosa stated that his client has just merged two separate properties that he owns into one lot. As a result of this merger, an existing apartment in a barn must now be an accessory use to the main residence.

Chairman Ivanhoe asked if the Planning Board approved the lot-merger.

Mr. DeRosa said he had the Planning Board's resolution from their Monday, July 9 meeting, which is contingent upon the ZBA's approval of the special permit application.

The Chairman asked if horses are kept in the barn, and Mr. DeRosa said they are.

Chairman Ivanhoe said it is somewhat unusual to see a residence above a horse barn, and he asked what kind of fire separation exists. The Chairman noted that the Certificate of Occupancy for the barn/apartment is from 1986, and he asked Gerald Reilly what is done in an instance of a pre-existing use like this one.

Mr. Reilly said he would consult with the Building Inspector, but he also added that the use is not changing; it is only being designated an accessory use because of the lot merger.

The Chairman asked if there is a central-station alarm in the building, and Mr. DeRosa said he did not know.

Mr. Reilly asked how many horses are kept in the barn.

Mr. DeRosa said he thinks there are 4 horses.

Mr. Reilly stated that the ZBA may require a central-station alarm as a condition of granting the special permit, because there are living quarters above a barn used for the stabling of horses.

Mr. DeRosa asked if the alarm requirement is triggered by the number of horses kept in the barn.

Chairman Ivanhoe said not necessarily/he is just concerned about safety in this instance. He asked the secretary if the barn would require regular inspections or not, because it's use is not commercial.

The secretary replied that the Ehrenkranz special permit for the keeping of horses expired years ago.

Mr. Reilly said that if there is no special permit for the horses, the Board should hold the application over until it is determined how many horses are kept in the barn because it is illegal to have them without a special permit.

Ms. McKean said she would prefer to hold the application over because she was uncomfortable not knowing enough about fire separation between the apartment and the barn.

Mr. DeRosa offered to call his client to see what kind of alarm system exists/how many horses there are.

Mr. Reilly said that if the special permit for the keeping of horses has expired, he would advise the Board that the application for the accessory apartment should be carried over until the other is applied for.

Chairman Ivanhoe noted that even if there were no apartment on the upper level, a special permit would be required for the keeping of horses.

Mr. DeRosa said he would like to call and check on the number of horses/there may be just 1 or 2.

James Murphy asked what difference it would make with regard to the application for the apartment.

The secretary said Mr. Ehrenkranz may keep up to 2 horses without a special permit.

Mr. Reilly said there was a special permit for the keeping of more than 2 horses before, so some kind of paperwork is needed. He noted that the Planning Board resolution requires a special permit for the accessory apartment and asked Mr. DeRosa if there is any particular issue of time.

Mr. DeRosa said he did not think so. He explained that the lot-merger was triggered by an application to install a generator; a survey showed that the previous lot line essentially went through a pool on one of the lots. The easiest solution for Mr. Ehrenkranz was to merge the lots.

The Chairman commented that it is unlikely that the lot-line change will be affected, but there is a situation wherein people are living in a building where horses are being kept, and he would like to know that the Building Inspector is satisfied with conditions in the building.

Mr. Reilly said a special permit may be required for the horses, depending on the number. He added that the Building Inspector is away on vacation, but the Assistant Building Inspector could go out and look at the barn.

Chairman Ivanhoe called for a motion to hold the application over to the August meeting.

Motion by: James Murphy
Seconded by: Cynthia McKean

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

Application held over.

BA12-28 – Finch Farm LLC (186 Vail Lane/55 Finch Road) – **Special Permit** – For the keeping of up to 6 horses for personal use, per Article XIII Section 250-72.

Don Rossi, attorney for the applicant, addressed the Board, stating that his client (Lawrence Fink) is assembling parcels he owns under a new ownership, Finch Farm LLC. The client has an existing special permit for the keeping of 6 horses on tax lot #22 (186 Vail Lane) and would like to amend it to reflect the new ownership.

A newly-acquired lot (55 Finch Road) previously had a wetlands activity permit, issued after lengthy review by the Planning Board, for work on a pond, construction of a bridge, and other landscaping. Mr. Rossi's client had the house on that lot demolished. He said the Planning Board's consultant noted that with the house removed, the other structures, paddocks, etc. are no longer accessory to a single-family residence on the lot. It was suggested by Roland Baroni, attorney for the Planning Board, as an alternative to formally merging the lots, that these 2 lots be encumbered by a declaration that neither can be sold off separately and which permits use of the properties as one lot for zoning purposes.

Mr. Rossi said a petition for the declaration has been reviewed and approved by the Town Board, with some changes requested. One change is that the declaration may not be changed without the consent of the Town; another is that the 2 properties constitute legal, separate lots under the Town Ordinance.

Mr. Rossi stated that improvements planned for the lot at 55 Finch Road have been approved by the Planning Board. He apologized for not providing a full set of plans with the special permit application, but he had shown Chairman Ivanhoe the approved plans before the start of the meeting. He invited the Board to look over the plans.

Ms. McKean asked about other property acquired by Mr. Fink.

Mr. Rossi stated that the house on another lot on Finch Road was also demolished, but the property is not part of the special permit application.

Ms. McKean asked if the landscaping work won't also include that lot, and Mr. Rossi said it will.

Mr. Rossi explained that he had been surprised to learn that a bridge, dams and paddock fencing on the 55 Finch Road property were considered accessory structures.

Ms. McKean asked if the barn at 55 Finch Road is to be removed.

Mr. Rossi said it will ultimately be removed and the paddocks re-configured. He explained that there are currently 6 or 7 paddocks that will be changed to 3 along the hillside.

The Chairman commented that it looks as though the paddock re-configuration is planned as part of the overall landscaping plan, as opposed to landscaping around existing paddocks. He added that the property will look better with the planned changes.

Mr. Rossi agreed, adding that his client does not need so many paddocks; there will be up to 6 horses kept on about 18 acres, although there is additional acreage available.

Mr. Rossi stated that his client seeks 3 things: to change the name on the special permit; to include 55 Finch Road in the permit; and to have the permit begin a new 10-year term now (existing permit to expire in 2014).

Chairman Ivanhoe expressed some reservation about granting the permit for 10 years without inspecting the properties.

Mr. Rossi said that, given the scrutiny of the property as part of the Planning Board review, he thought it would be safe to go ahead. He added that his client is also very meticulous about the care/maintenance of his property.

Ms. McKean said the land is well-maintained, but she noted a lot of tree-cutting going on that she has concerns about.

Faulting himself again for not submitting a complete set of plans, Mr. Rossi said the wetlands permit application process focuses on all aspects of what will be occurring on the property (pond-dredging to aerate and remove sediment and extensive landscaping). The Planning Board will be watching very closely, and the project is also under review by the Town Wetlands Inspector, the Army Corps of Engineers and the NYC DEP.

Mr. Reilly asked when the Wetlands Inspector will be checking the site again.

Mr. Rossi stated that there is a 12-page wetlands permit resolution, requiring a site meeting including the wetlands consultant and the Building Inspector before construction starts. During the course of the work, there will be regular inspections/the project will be monitored constantly.

Ms. McKean noted there are wetlands all through the woods.

Mr. Rossi stated that if more than 2 trees with a caliper of 6 inches or more within an acre are to be removed, a tree-cutting permit is required. He added that no permit is required for removal of saplings and brush, unless they are within a controlled wetlands area. Mr. Rossi said his client had had to get a demolition permit before the house at 55 Finch Road could be removed, so that work would have been inspected also. He reiterated that if any significant removal of trees was contemplated, a permit would be required, and the property is quite open/any work going on would be noticed.

Mr. Reilly asked when a property would be checked again within the 10 year duration of the special permit, after a wetland permit is closed out.

Mr. Rossi responded that there are maintenance requirements within the plans approved by the Planning Board for at least the first 1 to 2 years to make sure that plantings have stabilized/plants are surviving or being replaced. He added that the storm water pollution prevention program will also include mention of maintenance, and there is a requirement to file in the land records a maintenance agreement as notice to any purchaser that the property is subject to the SWPPP.

Ms. McKean asked if the special permit could be passed along with the property.

Mr. Rossi stated that the special permit will be personal to his client, but the wetlands issues/plans will run with the land.

Chairman Ivanhoe noted there is also a stone pump-house on the property.

Mr. Rossi said there will also be an aeration system and a small dock.

Ms. McKean said the applicant has another pond that doesn't work on the southwest corner of his property.

Mr. Rossi said he doesn't know anything about it, but he was inclined to think that it would be fixed as part of the larger plan.

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

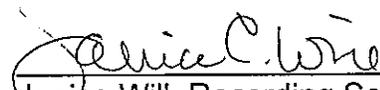
Mr. Reilly read a draft resolution.

Motion by: James Murphy
Seconded by: Cynthia McKean

Ms. McKean: Aye
Mr. Murphy: Aye
Chairman: Aye

Meeting adjourned.

Respectfully submitted,



Janice Will, Recording Secretary