

**BOARD of APPEALS**  
**Public Hearing**  
**June 14, 2012**  
8 p.m., The Annex

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

**MEMBER ABSENT:** Brian Ivanhoe, Chairman

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

***Acting Chairman William Monti called the June 14, 2012 Town of North Salem Zoning Board of Appeals meeting to order.***

The minutes of the May 10, 2012 meeting were unanimously accepted.

Mr. Monti set the next meeting for Thursday, July 12, 2012.

**HEARINGS 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.

2. **BA12-22** Jody Rosen (17 Baxter Road) – **Special Permit** - To amend existing special permit BA08-44 (commercial boarding of up to 20 horses) to include 2 employee dwelling units in an existing barn, per Article XIII Section 250-72.

Michael Piccirillo, architect, addressed the Board, stating that his client would like to have employee dwellings in an existing barn. Displaying a drawing, Mr. Piccirillo explained that an apartment in the barn was present when Mrs. Rosen bought the property, and she wants to legalize it. He pointed out the various rooms in the apartment. Turning to a photograph of the barn, Mr. Piccirillo said the subject property is on a private drive off Baxter Road, and the apartment has existed for a long time. He added that there have been no complaints or problems, but his client wishes to legalize the living quarters.

The secretary stated that the Building Inspector, Bruce Thompson, had asked her to tell the Board members that he asked the Rosens to make the apartment safer and more code compliant with an eye towards legalizing it as employee housing.

Mr. Monti asked if there is anyone living in the apartment now.

Mr. Piccirillo said he believes one person is currently living in the apartment. He stated that he is working with the Building Inspector to make the apartment safe and plans to have fire-rated walls put in to adequately separate the living quarters from where the horses are kept.

Mr. Monti asked if there is a list of all the specifics.

Mr. Piccirillo replied that there is such a list and the division between the 2 sections of the building will be very clear.

Gerald Reilly asked if there will be final drawings.

Mr. Piccirillo answered that the submitted drawings are final, adding that they are not for construction of additional rooms but rather they represent existing conditions plus a plan for a fire separation wall to improve safety. He said he had met with Mr. Thompson and the former Assistant Building Inspector, Maureen Eckman, and the submitted plan is what he came up with in response to those meetings.

Mr. Monti asked if the Building Inspector has signed off on the plan, and Mr. Piccirillo said he has not done so yet.

Richard O'Leary asked what the fire separation will be made of, and Mr. Piccirillo responded that it will consist of 2, 5/8 in.-thick wall boards.

Cynthia McKean asked if the fire separation wall will go up to the ceiling.

Mr. Piccirillo explained that it will continue up through the attic to the roof. He stated that the building's mechanical room is in the attic, and the fire wall will separate it from the loft area of the barn.

Mr. Reilly asked if the Building Inspector has seen the plan.

Mr. Piccirillo said the Building Inspector has not seen the plan, but it was drawn up based on what Mr. Thompson asked for.

Mr. Reilly commented that the 2008 special permit (BA08-44) does not include 2 employee dwellings, and he asked if Mrs. Rosen had been asked to correct a violation.

Mr. Piccirillo said that was right, because there is no Certificate of Occupancy for the apartment.

Mr. Reilly suggested to the Board that if they vote on the application, it should be subject to Mr. Thompson's approval of the plans. He explained that he was not distrusting Mr. Piccirillo, but he also had no way of knowing what the Building Inspector asked for. He went on to say that submitted drawings are usually specifically referred to in resolutions so that it is clear what was approved.

Mr. Monti asked that the resolution state that the special permit amendment's approval is not in effect until such time as the Building Inspector has examined and signed off on the fire-separation plan.

Mr. Reilly said this was a good idea, as it enabled the Board to move forward with the application.

Ms. McKean remarked that there appear to be 3 bedrooms.

Mr. Piccirillo explained that there are 3 rooms that could be considered bedrooms, but one is to be used as an office/his client only wishes to have 2 bedrooms.

Mr. Reilly stated that as the request is for 2 bedrooms, 2 is the maximum number of bedrooms the Board may approve. He asked what the acreage of the subject property is.

Mr. Piccirillo replied that there are 35.38 acres all together.

Ms. McKean said she felt concerned that Mr. Thompson was not present to offer his opinion on fire hazards in a barn, because she is not that familiar with what is needed in the way of prevention measures.

Mr. O'Leary said the Board was not really reviewing fire protection issues, and Mr. Reilly added that those things (alarm system, etc.) should have been covered in the 2008 resolution.

Ms. McKean asked if the barn has sprinklers or a monitored alarm system.

Mr. Piccirillo said it has a monitored alarm system, and he is merely creating a fire separation between the 2 uses of the building.

Ms. McKean asked if the dwelling will have a monitored fire alarm like the barn, and Mr. Piccirillo responded that it will have one.

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

Mr. Reilly read a draft resolution, including the condition that the special permit amendment is subject to the Building Inspector's approval of the submitted plan and other issues he may raise, as he was unable to attend the hearing of the application.

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

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

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

PUBLIC HEARING:

**BA12-26** Patricia and Richard Levinson (113 Dingle Ridge Road) – **Special Permit** – For the keeping of up to 12 horses and maintenance of a commercial boarding operation, per Article XIII Section 250-72.

The Levinsons were present, and Mr. Levinson stated that they have operated a farm for over 10 years, during which time they have refurbished or replaced every building, updated systems to decrease energy use, and cut use of pesticides. He said their new barn has a 24-hour monitored fire alarm system. Mr. Levinson said the Building Inspector recently conducted a fire safety inspection. Mr. Levinson said he has all necessary Certificates of Occupancy, and there are no issues/problems with the Building Department. He said he and his wife wished to renew their special permit for the keeping of horses but now only want the permit for 12 horses (previous special permit was for 15 horses).

Mr. Monti called on John McKay of 122 Dingle Ridge Road.

Mr. McKay said he supported renewal of the special permit, but he also asked if the special permit would be limited to the keeping of horses, and Mr. Monti said that was correct.

Mr. McKay mentioned other animals on the subject property.

Mr. Levinson said he was only requesting/only needs the special permit for the commercial boarding of horses. He stated that he also has ducks and chickens; his property is a farm and they are farm animals. Mr. Levinson said he does not seek to board any other kinds of animals like llamas, but he intends to keep his pets and farm animals.

Mrs. Levinson said their property is in the Agricultural District (Westchester County Agricultural District #1).

Mr. Monti asked Mr. McKay if his question had been answered, and Mr. McKay said it had.

Mr. Reilly noted that the Levinson's previous special permit, BA00-55, did not require a centrally-monitored alarm system.

Mrs. Levinson said they have already added such a system, and it was inspected by Mr. Thompson recently.

Mr. Reilly said he brought the subject up because it will be a change from the former special permit. He asked if the Building Inspector had requested/required anything else.

Mr. Levinson stated that the alarm system and fire extinguishers were installed when the new barn was built. Mr. Thompson asked him to have someone go out and check the fire extinguishers, which he did and forwarded the report to the Building Inspector.

Referring to condition #7 in BA00-55, Mr. Reilly asked if the Levinsons have removed an animal shelter straddling the property line.

Mrs. Levinson said the shelter is gone.

Mr. Reilly asked how recently the Building Inspector was at the Levinson property, and Mr. Levinson said it was just a few weeks ago.

Mr. Levinson asked what the Town's rules are for fire-alarm systems.

Mr. Reilly said the rule applies only to commercial horse-boarding operations and people keeping 10 or more horses; it is that the alarm must be audible on the property and centrally-monitored.

Mr. Levinson stated that he is in compliance with that rule.

Mr. O'Leary asked how long a special permit is good for, and Mr. Reilly replied that it expires in 10 years or upon transfer of ownership of the subject property.

Mr. O'Leary said that would mean that Mr. Levinson's special permit had expired.

Mr. Reilly said that was true. He added that there is a reminder system in place now. He said BA12-26 will actually be a new permit/not a renewal, and it will expire in 10 years.

Mr. O'Leary asked if there were comments from any neighbors, and Mr. Levinson said he had not received any.

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

Mr. Reilly read a draft resolution with all the requirements/conditions of BA00-55, plus the requirement of a centrally-monitored alarm system.

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

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

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

Mr. Monti closed the meeting at approximately 8:20 pm.

Respectfully submitted,

  
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Janice Will, Recording Secretary