

**BOARD of APPEALS**  
**Public Hearing**  
**August 9, 2012**  
7:30 p.m., The Annex

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

**MEMBERS ABSENT:** Richard O’Leary  
James Murphy

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

*Chairman Brian Ivanhoe called the August 9, 2012 Town of North Salem Zoning Board of Appeals meeting to order.*

The Chairman set the next meeting for Thursday, September 13, 2012.

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.

**HEARINGS CONTINUED:**

**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.

**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.

Chairman Ivanhoe stated that this application would be held over again also.

PUBLIC HEARINGS

**BA12-29** Alison Estabrook/William Harrington (732 Titicus Road) - **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district, per Article V Section 250-15. A variance of 70 ft. is requested (75 ft. required; 5 ft. proposed).

William Harrington addressed the Board, stating that he wants the shed for storage of his tractor, fuel and other equipment. He said it is more convenient to have the shed near his barn. Mr. Harrington noted that there are a lot of wetlands/wetland buffer zones on his property, so there were not many locations to choose from. He stated his intention to have the shed painted to match the barn.

The Chairman commented that painting the shed to match the barn is a good idea, and he asked if the shed is already present in the proposed location.

Mr. Harrington conceded that the shed is there.

Gerald Reilly asked if the property next-door is owned by NYSEG.

Mr. Harrington replied that is. He said the Levs (736 Titicus Road) are his neighbors across the street, and they sent him a note stating that they do not object to the placement of the shed.

Cynthia McKean agreed with the Chairman that painting the shed to match the barn will help, as the shed is very visible/obvious now.

William Monti noted that the applicant had been to the ZBA a few years earlier for a special permit, and he asked if the shed was present on the property at that time.

Mr. Harrington responded that he got the shed later.

Chairman Ivanhoe asked if there is electricity in the shed or any lights on the outside, and Mr. Harrington said there is no electricity.

The Chairman noted there were no further questions or comments and closed the public hearing.

Mr. Reilly read a draft resolution, noting that the shed is to be painted to match the barn, and there may be no lighting in or on the shed.

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

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

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

**BA12-30** Peter Risetto (217 Hardscrabble Road) – **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district, per Article V Section 250-15. A variance of 13 ft. is requested (75 ft. required; 62.9 ft. existing/proposed) for construction of an addition to a non-conforming single family dwelling.

Peter Risetto stated that he is proising to expand a non-conforming solarium, but the extension will not intrude any further into the setback than the existing room.

Mr. Monti stated that he is an adjoining neighbor of Mr. Risetto, but he had no interest in the request other than as a member of the Board of Appeals and intended to vote on the application.

The Chairman noted there were no questions and closed the public hearing.

Mr. Reilly read a draft resolution, noting that the addition will be no closer to the side yard line than the existing solarium.

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

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

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

*The Chairman stated that the Board would consider the next 2 applications together.*

**BA12-31** Robert Hinman (893 Peach Lake Road) – **Special Permit** – For the keeping of up to 15 horses and maintenance of a commercial boarding operation, including construction of an indoor riding arena, alteration/addition to an existing structure to be used as a stable with office and groom’s quarters, and installation of paddock fencing, per Article XIII Section 250-72.

**BA12-32** Robert Hinman (893 Peach Lake Road) – **Area Variance** – To decrease the minimum combined side yard setbacks for Use Group “A”, per Article V Section 250-15. A southern side yard setback variance of 37 ft. (75 ft. required; 38 ft. proposed) and a combined side yard setback variance of 5 ft. (200 ft. required; 195 ft. proposed) are requested for construction of an indoor riding arena and alteration/addition to an existing non-conforming building for use as a stable with office and groom’s quarters.

Don Rossi, attorney, informed the Board that although his client had been contract vendee of the subject property when the applications were filed, he is now the owner. Mr. Rossi displayed a site plan and described the location of the lot immediately north of the Quaker cemetery. He added that the subject property is part of what used to be the Nichols farm.

He stated that his client proposes a commercial boarding operation for up to 15 horses, including the proposed extension/conversion of an existing carriage house and a new 200 ft. x 80 ft. indoor riding ring. Mr. Rossi said the owner's daughter, Jennifer Hinman, will reside on the subject property in the existing house.

In keeping with the property's historic nature as well as existing improvements and topographical factors, the farm operation, Sweetwater Farm, Inc., will be situated in areas already used or cleared to the extent possible, in order to limit disturbances. Mr. Rossi stated that area variances will be required to allow the use of the carriage house as a barn that will be less than 150 ft. from the side yard line (and less than the 75 ft. that the ZBA may permit as part of granting a special permit). Indicating areas on the site plan, Mr. Rossi pointed out the parts of the extended carriage house/barn and new riding ring that will require side yard variances. He noted that riding arena will be constructed parallel to a 100 ft.-wide NYSEG-owned parcel to the rear of the subject property. Finally, a 5 ft. combined side yard setback is also required.

Mr. Rossi remarked that the farm will fit nicely into the neighborhood with little if any impact on adjoining properties and permit the rehabilitation of a grand residence as well. His client will have several paddocks at the front of the property along Route 121 (Peach Lake Road). Mr. Rossi displayed photo renderings of how the property will look. He stated that the front paddocks will be kept in grass/not used for exercise of the horses in an effort to maintain the aesthetics of the entrance to the property; the paddocks will be used for grazing. He noted that the Board's resolutions usually include prohibitions of manure accumulation in the fields and classify manure as a substance regulated under the Health Code, and those conditions are easily enforceable.

Mr. Rossi stated that Chris Caralyus, the project engineer, and Jennifer Hinman were also present.

Ms. McKean said she does not think the paddock fencing will look just as it is pictured in the photos, as horses will not graze so close to a house.

Mr. Rossi said the paddock fence will be separated from the house by a driveway.

Chairman Ivanhoe commented that 121 is a busy road, and he strongly suggested that 4-board fencing be employed along the road.

Jennifer Hinman agreed with the Chairman.

The Chairman asked for the acreage of the paddock areas, and Mr. Caralyus said it will be less than 3 acres.

Chairman Ivanhoe asked if that will be sufficient.

Ms. Hinman explained that she will be keeping show horses on the farm, which require limited turn-out. She said the horses will be turned out 2 at a time for 2 hours at a time, so there will be enough paddock space/the paddocks will be rotated and not over-utilized.

The Chairman commented that the manure storage site will provide good access. He added that he felt that the farm will be a good outcome for the property in its location/in terms of area viewshed. He noted that the design is low-impact with minimal clearing, which is also desirable, and there is room if additional paddock-space is needed.

Mr. Monti asked about maneuverability around the manure dumpster site.

Mr. Caralyus said there is 20 ft. between the barn addition and the riding ring, which should be plenty of room for the trucks to turn around and back in.

Mr. Monti asked where hay will be stored.

Mr. Caralyus explained that it will be kept in a separate shed in an open area of the property where a pickup truck or tractor may drive out to it on the grass.

Mr. Monti stated that he agreed with the Chairman that the farm will be an appropriate use of the property, and the retention/enhancement of existing structures is of value.

The Chairman opened the hearing up to public questions and comments, and called on Frances Ott of Pietsch Gardens Co-op.

Ms. Ott said there is concern about manure run-off from snow or rain, especially from the front paddocks where the land slopes downward. She stated that water crosses the street to Pietsch Gardens and the lake when it rains, so she would like to be sure that the paddocks will be kept clean.

Chairman Ivanhoe said it is customary to pick out paddocks on a daily basis.

Mr. Reilly asked if this should be a condition in the resolution, and Ms. Ott said she would like that.

Mr. Rossi asked that the term, "no accumulation of manure" be employed, rather than a specific statement that manure must be picked out daily.

Ms. Hinman said the kind of horses she will be boarding do not go out into the paddocks much. She added that the front paddocks will also be her front yard, and she will want grass without manure accumulating on it.

Mr. Rossi suggested the Board include a condition that the front paddocks be maintained in grass as well as a condition prohibiting manure accumulation.

The Chairman asked Ms. Ott if that would be satisfactory, and Ms. Ott said it would.

William Harrington of 732 Titicus Road asked what the total acreage of the parcel is.

Mr. Rossi replied that It is 13.44 acres, most of which is wooded.

Chairman Ivanhoe remarked that the area to the north is rather lightly wooded, so additional paddocks could easily be added if needed.

Mr. Monti asked on which side of a wall on the property the sewer line is located.

Mr. Caralyus explained that it runs behind/inside the wall on the subject property and acts as a kind of storm-water mitigation system.

Mr. Monti commented that the survey should be updated to include the line, and Mr. Rossi stated that this has been done.

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

Mr. Reilly read a draft resolution for the Special Permit, including conditions that manure may not be allowed to accumulate in the front paddocks and they must be maintained in grass.

Chairman Ivanhoe noted that a central-station alarm monitoring system must be installed in the barn.

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

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

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

Mr. Monti asked what kind of fire protection will be employed beside an alarm in the barn.

Mr. Rossi said the barn will be built per NYS Building/Fire Prevention Code requirements, and there will be fire extinguishers, etc.

Mr. Caralyus said some self-closing doors will probably be employed in places.

The Chairman asked if there will be an exterior alarm also, and Mr. Rossi remarked that it would be prudent to have one.

Bruce Thompson stated that the Code requirements for an agricultural building are different, but he added that the central station alarm system is sufficient. He said the Building Department inspects the alarm systems regularly to make sure they are working properly.

Mr. Reilly read a draft resolution of the area variance, including the finding that the owner of the nearest neighboring property is NYSEG.

The Chairman explained that, because the barn is banked, the horse stalls will actually be below grade; the first level is next up and the groom's quarters will be on the second level of the existing carriage house.

Mr. Thompson noted that as the building will be classified mixed occupancy, it must actually be completely built per the Building Code and not as a purely agricultural building.

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

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

**Area variance granted, as requested.**

**BA12-33 White Squirrel Properties LLC (22 Harvey Road) – Area Variance –** For construction of an addition to the Schoolhouse Theater and modification of parking areas, the following variances from Use Group "B" requirements are requested, per Article V Section 250-15 and Article VI Section 250-20:

- Decrease front yard setback from 75 ft. required to 6 ft. existing/proposed for an addition to the rear of a non-conforming building.
- Permit parking within the required front, side and rear yards.
- Increase maximum building coverage from 10% permitted to 16.5% proposed (15.6% existing).
- Increase maximum development coverage from 20% permitted to 57% proposed (49% existing)

Leandra Pope, property-owner, and James Nixon and Jan Asong, architects, were present. Mr. Nixon displayed photographs and a site plan of the subject property. He explained that the existing non-conforming building was a school in the 1920's and is in a residential, R-1/2 zoning district. It has been a theater since the 1980's.

Mr. Nixon stated that his client proposes a small addition at the rear of the building (448 sq. ft./one story). He said that due to interior changes the theater will have more seats, which in turn will require more parking/the existing parking is non-conforming. Mr. Nixon noted that the building is already non-conforming, adding that the change will be slight.

Mr. Monti said he had attended the Planning Board the night before, and there was a comment from just one neighbor regarding tree-planting as a screen.

Mr. Nixon said they have met with the neighbor and agreed to make some landscaping improvements.

Chairman Ivanhoe commented that the project has not been referred to the Board of Appeals by the Planning Board yet.

Mr. Reilly stated that unless there is a SEQR Negative Declaration, the ZBA may only vote on the application contingent upon Planning Board approval. Mr. Reilly asked if the landscaping proposal is on the submitted plan.

Mr. Nixon replied that it is not, but it will be incorporated before further review by the Planning Board.

Mr. Reilly said the ZBA may leave the landscaping requirements up to the Planning Board.

Daniele Gervais of 20 Harvey Road stated that she lives next to the Schoolhouse Theater. She explained that she loves what is done there, but her house overlooks the back of the theater and an unfenced dumpster.

Mr. Reilly asked when the dumpster is picked up.

Leandra Pope said it is picked up on Mondays. She agreed that it can be better protected than it is now and suggested that it could be moved closer to the building and a new fence built around it.

The Chairman asked where the dumpster is located now/where it could be placed.

Mr. Nixon displayed a photo of the rear of the building and the dumpster. He said the plan is to fence in an area for the dumpster and some storage.

Mr. Reilly suggested the resolution contain a condition that the dumpster be fenced to screen it from view by the nearest neighbor and more landscaping be implemented at the rear of the subject property as well.

Ms. Gervais said there were specific things she wanted to request with regard to landscaping, but Mr. Reilly said the Planning Board will be determining the landscaping requirements/she should go to their next meeting.

Mr. Monti noted that the Planning Board expressed concern about lighting at its meeting, and he asked what is done about lighting for safety in the parking areas. He commented that he was not sure how to ensure adequate safety and also not have lights shining onto the theater's neighbors.

Mr. Nixon stated that currently there is only low lighting on the building/generally over the doors. He said he will see if more lighting for the parking areas is necessary, adding that he does not have a solution yet, but he will not propose lights that would shine toward neighboring properties.

Mr. Reilly said the Board usually requires that lighting not be visible at its source and asked the Chairman if he wanted to include a condition about lighting.

Ms. Pope asked if down-lights mounted on low posts would be acceptable.

Mr. Reilly said that is the kind of lighting the Board prefers.

Ms. Pope said some people want more lights installed on the building corners, but those are floodlights and very bright.

The Chairman said the Board usually does not like floodlights.

Ms. Pope asked if there is a Town Ordinance regarding lighting.

The Building Inspector said there is not, although there is a standard; the subject normally comes up during site plan review. He added that he thought the Planning Board would cover lighting.

Mr. Nixon said he will have plans for landscaping and lighting ready for the September Planning Board meeting.

Bret Puchir (also 20 Harvey Road) asked if the roof of the Schoolhouse is being repaired or will be replaced.

Ms. Pope explained that it is to be replaced, but the work is being done in phases and it's taking some time.

The Chairman closed the public hearing.

Mr. Reilly read a draft resolution, noting that the project is also before the Planning Board. He included conditions that additional landscaping is to be employed (specifics determined by the Planning Board); there will be fencing installed to screen the theater's dumpster from view from the nearest house to the rear; any lights added will not be flood lights but down-directed lights per the direction of the Planning Board.

**Motion by:** *Cynthia McKean*

**Seconded by:** *William Monti*

**Ms. McKean:** *Aye*

**Mr. Monti:** *Aye*

**Chairman:** *Aye*

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

**BA12-34** Nora/Todd Amus (27 June Road) – For the granting of a further extension of Building Permit #5508, which expired on July 14, 2012 and may not be further extended by the Building Inspector, per Chapter 92-4 of the Town Code.

Nora Amus read an e-mail from her architect, Milton Gregory Grew, to the Board, explaining why he could not be at the meeting. Ms. Amus said her attorney was not present either, as she has just recently selected a new one. She noted that with construction loan difficulties holding things up, she and her husband have been self-funding the project for several years.

Regarding the last Building Permit extension, BA11-30, Mrs. Amus said all of the conditions have been met. The dumpster previously located on the subject property has been removed/replaced by a smaller one. She said the outdoor lights on the rear of the house have been replaced with cone-shielded motion-detector lighting. Mrs. Amus described progress on the construction sequence and interior work completed also. Mrs. Amus stated that most sheet-rocking, painting, doors, stone/marble work, appliance installation, floors, gutters and site work are done. She is waiting for someone from Bibbo Associates to come and do a walk-through/provide a letter of completion. She said the County has finished its work on June Road, and her old driveway has been removed. Mrs. Amus said a pre-shaped stair rail for a circular stairway became warped in storage and needs to be replaced, which is taking some time. She added that she recently received the final electrical inspection certificate.

The Building Inspector asked if Mrs. Amus had the same electrician do all the work in/on the house.

Mrs. Amus replied that she did not use the same electrician, but she had the same inspector from State-wide Inspection Service for both the rough and final inspections.

The Building Inspector said the certificates usually enumerate the number and type of devices, but he will call SWIS to check on what they have from the rough inspection.

Chairman Ivanhoe asked if the stair rail is necessary for the issuance of a Certificate of Occupancy, and Mr. Thompson said it is.

Mrs. Amus explained why it would not be possible to install a temporary railing.

Mr. Reilly asked Mrs. Amus how much time she thinks she needs to finish everything.

Mrs. Amus said she would like to be given 6 months, as there is still a financial issue/she needs the funding situation resolved.

Chairman Ivanhoe asked Mr. Thompson how he would feel about the extension being for 12 months.

The Building Inspector replied that it would be up to the Board to decide how long to grant the extension for.

The Chairman stated that the Board would agree to an extension of Building Permit #5508 for up to 12 months and closed the public hearing.

Mr. Reilly read a draft resolution, stating that the building permit would be extended for a period of up to 12 months from July 14, 2012 to July 14, 2013.

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

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

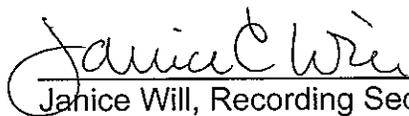
***Building Permit extension granted, as requested.***

The secretary reminded the Chairman that the July meeting minutes had not been approved yet.

Mr. Monti made a motion to accept the July 12, 2012 minutes. The minutes were unanimously accepted.

There being no further business to attend to, the meeting was adjourned.

Respectfully submitted,

  
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Janice Will, Recording Secretary