

BOARD of APPEALS
Public Hearing
September 13, 2012
7:30 p.m., The Annex

MEMBERS PRESENT: Richard O'Leary
Cynthia McKean
William Monti
Brian Ivanhoe, Chairman

MEMBERS ABSENT: James Murphy

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

Chairman Brian Ivanhoe called the September 13, 2012 Town of North Salem Zoning Board of Appeals meeting to order.

The Chairman set the next meeting for Thursday, October 11, 2012.

The minute of the August 9, 2012 hearing were unanimously approved after the secretary noted 2 corrections.

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.

Nancy Tagliaferro, attorney was present for this application. She explained that the need for the special permit was the result of a lot-line change to combine the properties at 131 and 250 Keeler Lane. Ms. Tagliaferro stated that the Planning Board has approved the merger subject to the ZBA's approval of the special permit for an existing accessory apartment.

Ms. Tagliaferro said the ZBA had expressed concern about fire safety conditions in the barn when the application was first heard. She met with the Building Inspector who is satisfied with the conditions, including smoke- and central-station alarms.

Chairman Ivanhoe said he read the memo from a former building inspector which stated that hay is stored in another building.

The Building Inspector, Bruce Thompson added that the barn and apartment would be subject to earlier Code requirements than the currently-used 2010 one. He explained that Dan Betterton, Building Inspector at the time, had the same opinion as his about the mixed occupancy of the barn, and issued the Certificate of Occupancy in 1986 subject to installation of 2-hour fire-separation between the first floor and the apartment on the second floor. Mr. Thompson said Mr. Betterton would have confirmed that this work was done, so there is no need to pursue the issue any further.

The Chairman said fire safety had been the main issue, and he was satisfied now. Noting there were no questions or comments, he closed the public hearing.

Mr. Reilly read a draft resolution, including the finding that both the former and current Building Inspectors were satisfied with the fire-safety precautions in the barn per documentation provided in 1986.

Motion by: William Monti
Seconded by: Cynthia McKean

Mr. O'Leary: Aye
Ms. McKean: Aye
Mr. Monti: Aye
Chairman: Aye

Special permit granted, as requested.

PUBLIC HEARINGS

BA12-35 Janet Guthrie Howard (70 Bloomerside 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 variance of 20 ft. is requested for construction of a deck (35 ft. required; 15 ft. proposed; 10.87 ft. existing).

Rick Torre, architect, addressed the Board, stating that his client wishes to have a deck on her house but it will violate the rear setback, so she would like a variance to permit its construction.

Richard O'Leary asked if there had been any comments from Co-op residents, and Mr. Torre replied that there had not been any.

Mr. Thompson stated that the deck was approved by the Bloomerside Co-op board.

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

Mr. Reilly read a draft resolution, noting that the deck was approved by the Co-op board and fits in with the character of the neighborhood.

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

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

Area variance granted, as requested.

BA12-36 Isidoro Neri (15 Westview Cross Road) – **Area Variance** – To decrease the minimum rear yard setback in an R-1/2 zoning district, per Article V Section 250-15. A variance of 23 ft. is requested (35 ft. required; 12 ft. existing/proposed) for replacement of an existing storage shed with a new 16 ft. x 24 ft. shed.

Isidoro Neri stated that he has an old, rotting shed which he would like to tear down and replace with a larger structure so he will be able to keep more things in it. He commented that storage sheds never seem big enough, so he wants to have large one where he can keep his tractor, lawn mower, etc.

Chairman Ivanhoe asked if there will be electricity in the new shed, and Mr. Neri answered that there will not.

The Chairman called on Gerald Greitzer of 14 Westview Avenue. Dr. Greitzer said he received a Notice to Property-Owners although he does not know where the Neri property is, and he asked Mr. Neri if he is the neighbor with the chickens.

Mr. Neri said he has chickens, and Dr. Greitzer commented that he has had a couple of eggs.

Dr. Greitzer asked if the shed will be green as depicted in the photo with the application or some other color.

Mr. Neri said the only picture available is of a green shed, but he does not know what color it will be.

Dr. Greitzer asked if Mr. Neri merely wants to replace one shed with another one, and Mr. Neri said that was correct.

Chairman Ivanhoe asked Dr. Greitzer if he can see the existing shed.

Dr. Greitzer said he can't really/there are plenty of shrubs and he isn't bothered by the shed.

The Chairman asked Mr. Neri what color his house is, and Mr. Neri replied that it is beige.

Chairman Ivanhoe asked Mr. Neri if he plans to paint the shed to match the house.

Mr. Neri explained that the shed comes pre-painted; if it comes in beige, he will get that one. He assured Dr. Greitzer that it won't be purple or any other wild color.

Dr. Greitzer said he had no objection to the variance for the shed.

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

Mr. Reilly read a draft resolution, noting that one neighbor appeared at the hearing but had no objection, there is shrubbery screening between the shed and the neighbor's property, and it will be beige or some other color that blends in with the environment.

Motion by: William Monti
Seconded by: Cynthia McKean

Mr. O'Leary: Aye
Ms. McKean: Aye
Mr. Monti: Aye
Chairman: Aye

Area variance granted, as requested.

BA12-37 Baxter Hill, LLC (173 Baxter Road) – **Special Permit** – For the keeping of up to 23 horses for personal use, including construction of a stable addition to an existing indoor riding ring and a new detached garage with living quarters for 2 grooms on the second floor, per Article XIII Section 250-72.

Chairman Ivanhoe stated for the record that his property is across the street from the subject lot, but he did not intend to recuse himself.

Don Rossi, attorney, stated that the following people were also present: Mr. David Gochman of Baxter Hill, LLC; David Zublin of Old Town Barns; and Steven Weiss and Amanda Derbyshire, who will manage the farm and live on-site.

Mr. Rossi described the property as consisting of approximately 68 acres to the north of Baxter Road with a long driveway. Displaying a site plan, Mr. Rossi said the existing conditions include a residence, barn and riding rings clustered at the rear of the property. He noted that there are no other residences within 900 ft. of the indoor ring. Mr. Rossi explained that his client proposes to keep 23 horses for private use and to build a garage behind the riding ring for storage on the first floor with 2, 576 sq. ft. apartments on the second floor. He noted that this is slightly larger than the general rule in the Zoning Code,

but he thinks it is appropriate. Mr. Rossi commented that Mr. Weiss and Ms. Derbyshire will also live on-site, and there will be other employees who live off-site, so the farm will be appropriately managed.

Turning to a site plan including the proposed improvements, Mr. Rossi pointed out the barn addition to the indoor riding arena, the garage and an extension of the driveway. He commented that the property is immaculate, and his client will see that it is kept that way.

Mr. Rossi stated that Mrs. Gochman is an accomplished rider, and her daughters are following in her footsteps.

Turning to elevation drawings, Mr. Rossi commented that the indoor ring with addition will be larger than some other private stables, but the private use will be good/generate less traffic than a commercial operation. He added that the improvements will be in an area on the site that is already disturbed. Mr. Rossi noted that the barn addition to the indoor ring will be less than 150 ft. from the western side yard line, but the Board may reduce the setback to 75 ft. as part of the granting of the special permit (setback will be 114 ft.).

Chairman Ivanhoe noted that the trainers will live on site, but the horses are usually down south.

Mr. Rossi said the horses are taken to Wellington, FL for 6 months of the year.

Chairman Ivanhoe asked if the applicants expect to use all the stalls for their own horses, and Mr. Rossi said they do.

Noting that the current owners of the subject property had a special permit for 8 horses (none currently on the property), the Chairman asked how long/how often the 23 horses will be turned out in the paddocks.

Mr. Weiss stated that for 6 months, there will be no horses at the farm/the land will rest. For the other 6 months, they will be individually turned out and the paddocks will be used as little as possible in order to preserve them. He added that 8 horses will go out early in the morning for an hour or 2, then 8 more horses are turned out; a small group will not be turned out at all. Mr. Weiss stated that as part of keeping the paddocks in good shape, manure is removed daily. He noted that the horses will be in Florida during the winter months, which is when the paddocks would be most vulnerable.

Mr. Rossi said that after further review, it was decided that it would be appropriate to separate the paddocks into smaller areas in the future, and he asked that this change be incorporated into the resolution.

The Chairman commented that the paddock area is large.

Mr. Rossi said the farm plan shows 5.1 acres of paddocks and there is approximately another 4 acres cleared along the sides of the driveway that is available if more paddock space is needed.

Chairman Ivanhoe asked if fly predator will be employed. He said he would encourage its use, adding that it only really works if contiguous farms use it. He said there are fly issues on some farms around Town, and he thinks fly predator is the best way to manage the problem.

Mr. Weiss said he will use the fly predator if that is what the Board wants.

The Chairman said it was just a suggestion.

William Monti commented that the property is very well-kept.

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

Mr. Reilly asked the Chairman if he wanted to make it a condition in the resolution that no more than 8 horses may be turned out at a time.

Chairman Ivanhoe suggested a statement that the applicant has proposed a farm management plan with existing paddock space which the Board would like to see employed.

Mr. Rossi asked that this not be made a specific condition. He said there is sufficient flexibility in the Code that if the paddocks are not kept up, the Board has the ability to bring enforcement in.

Mr. Monti noted that the house is fairly close to the paddock areas, so the owners will probably want them kept up.

Mr. Reilly asked about the fly predator, but the Chairman said that was a suggestion.

Mr. Reilly read a draft resolution.

Mr. Rossi asked that the resolution include permission to change the fencing to separate the existing paddocks.

Mr. Reilly said he thought that would be considered part of the farm management plan.

Mr. Monti asked why the Board would want to get involved with paddock fencing.

Mr. Rossi said he feared it could be an issue because the reconfigured paddocks aren't on the submitted plan.

Mr. Thompson remarked that it would merely be a reconfiguration of existing paddocks for which the applicant would not have to apply for an amended special permit.

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

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

Special permit granted as requested.

BA12-38 Finch Farm, LLC (55 Finch Road) **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district, per Article V Section 250-15. A setback variance of 25 ft. is requested (75 ft. required/existing; 50 ft. proposed) for construction of a trellis attached to a cabana.

Nancy Tagliaferro, attorney, explained that 55 Finch Road is undergoing improvements in the form of accessory structures that will be accessory to the principle residence at 186 Vail Lane (adjoining lot also owned by the applicant). She explained that, per a covenant approved by the Town Board, the properties will not be merged/combined, but any structures in the required setbacks must have variances in the event that the subject property may be sold in the future. Ms. Tagliaferro further explained that, per the Zoning Ordinance, trellises do not require area variances, but because the trellis will be attached to a cabana, it will all be considered one structure. She added that the cabana will not be in the setback.

There were no questions and the Chairman closed the public hearing.

Mr. Reilly read a draft resolution, noting that there were no objections to the application.

Chairman Ivanhoe stated that no lighting for the trellis is shown on the submitted plan; if the applicant wants to have lights, they may not be visible at their source/there may be no floodlights.

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

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

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

BA12-39 Joel S. Ehrenkranz (131 Keeler Lane) – **Special Permit** – For the keeping of up to 9 horses for personal use, Per Article XIII Section 250-72.

Ms. Tagliaferro addressed the Board again, stating that during the hearing of her client’s application for a special permit for an accessory apartment, it came to light that a special permit for the keeping of 7 horses had expired. Ms. Tagliaferro said that although BA12-

39 requests a special permit for the keeping of up to 9 horses, she would like to lower that number to 7 as there are only 7 stalls in the barn.

Chairman Ivanhoe asked if the old special permit contains all the same conditions as those issued now.

The secretary said they are not quite the same, but she will include the conditions that are currently used.

Mr. Thompson stated that the old special permit contained a condition that manure must be removed every 2 months and the situation monitored, but this condition is not necessary/there is a standard condition about the handling of manure now used in all special permit resolutions.

The Chairman asked if there are any horses on the property now.

Michele Belansky, property-manager, said there are 4. She explained that Mrs. Ehrenkranz has taken on some retired race horses, and 2 are walked in one of the paddocks with an area of about 11 acres and 2 are walked in a lower paddock of about 3 acres. She stated that the 20-yard manure dumpster is right outside the barn and is changed out regularly.

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

Mr. Reilly read a draft resolution.

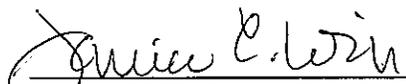
Motion by: William Monti
Seconded by: Cynthia McKean

Mr. O'Leary: Aye
Ms. McKean: Aye
Mr. Monti: Aye
Chairman: Aye

Special permit granted, as requested.

The meeting was adjourned at approximately 8:15 pm.

Respectfully submitted,



Janice Will, Recording Secretary