

**BOARD of APPEALS**  
**Public Hearing**  
**October 11, 2012**  
7:30 p.m., The Annex

**MEMBERS PRESENT:** Richard O'Leary  
William Monti  
James Murphy  
Brian Ivanhoe, Chairman

**MEMBER ABSENT:** Cynthia McKean

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

***Chairman Brian Ivanhoe called the October 11, 2012 Town of North Salem Zoning Board of Appeals meeting to order.***

The minutes of the September 13, 2012 hearing were unanimously approved.

The Chairman set the next meeting for Thursday, November 8, 2012.

Chairman Ivanhoe announced that application BA12-42 would not be heard, because the applicants neglected to mail the Notice to Property-Owners as required. BA12-42 will be heard in November.

**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.

**PUBLIC HEARINGS:**

**BA12-40** Michele Savino (2 Dingle Ridge Road) – **Area Variance** – To increase the maximum height of a fence in a front yard, per Article VI Section 250-22. A variance of 4 ft. is requested for construction of a screening fence (4 ft. permitted; 8 ft. proposed).

Kenneth Siegel, architect, addressed the Board, explaining that his client is proposing to put up a screening fence to block the view of a cooler at the rear of the property

(Restaurant 121). Mr. Siegel stated that as the property has frontage on 2 streets, 35-ft. front yard setbacks are required for both. He said a length of approximately 4 ft. of the proposed 8 ft.-high fence will be within the 35 ft. setback, requiring a variance.

Chairman Ivanhoe commented that the fence will mostly be seen by people parking in the rear lot, and he asked what color the fence will be.

Mr. Siegel said the fence will be white vinyl.

The Chairman asked if any lighting is proposed.

Mr. Siegel explained that his client originally wanted lights along the existing fence on the north side, but she has decided against them. Mr. Siegel said the plan now is to install low-wattage lights along the base of the existing stone wall at the rear of the lot.

Chairman Ivanhoe asked if Mr. Siegel meant like garden lights, and Mr. Siegel said that was correct.

The Chairman asked about a note on the plans indicating Christmas-type lights on the trellis (top of fence).

Mr. Siegel said the lights would only be installed as a seasonal decoration.

Chairman Ivanhoe commented that some plants on the subject property have the lights all year-round.

Mr. Siegel said he would be happy to agree to a condition that lights may only be put on the trellis seasonally.

The Chairman asked if the lights will be white, and Mr. Siegel said yes/like little holiday lights.

William Monti asked if the drawing has been revised to indicate for the record that no lights will be employed along the fence line, and Mr. Siegel replied that it has.

Gerald Reilly asked which one is filed with the Building Department. He stated that the drawing submitted (to the Planning Board) for the Waiver of Site Development Plan and the one submitted for the variance should be the same.

Mr. Siegel explained that the Planning Board Chairperson, Cynthia Curtis, had asked him to remove the lights from the drawing, but he has not re-submitted the drawing to the Planning Board.

Bruce Thompson, Building Inspector, said the revised drawing submitted to the Planning Board should be the same as that submitted to the ZBA and the revision date should be mentioned in the resolution.

Regarding the vinyl to be used for the new fence, the Building Inspector commented that it used to be a high-gloss product.

Mr. Siegel said that it is rather shiny when it first comes from the factory, but it fades.

The Building Inspector said he thought it might come in a satin finish.

Mr. Siegel said he would inquire about different finishes/will get a non-shiny finish if it is available.

Chairman Ivanhoe asked if the lattice will be made of vinyl also.

Mr. Siegel said it will be/the aim is for zero maintenance to be needed.

The Chairman said he assumed the posts will be solid/not made of vinyl.

Mr. Siegel explained that the posts are constructed of pressure-treated wood wrapped with vinyl.

The Chairman asked if there were any further questions or comments. There were none, and he closed the public hearing.

Mr. Reilly read a draft resolution, including the finding that the application came to the ZBA via a Planning Board Site Development Plan Waiver dated September 19, 2012. He also noted that the revised drawing showing no lights on the fence was dated September 18, 2012. A Condition was that there may be no permanently-installed lights on the fence/only low lights along the existing wall are permitted.

**Motion by:** James Murphy  
**Seconded by:** William Monti

**Mr. Monti:** Aye  
**Mr. Murphy:** Aye  
**Chairman:** Aye

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

Chairman Ivanhoe asked what will be planted in the fence-mounted planters, commenting that they won't hold much soil.

Mr. Siegel said his client will have to wait and see what works best.

The Chairman said clematis might thrive.

**BA12-41 Roger Kay (463 Route 22) – Area Variance – To decrease the minimum rear yard setback in an R-1 zoning district, per Article V Section 250-15. A variance of 14 ft. is requested (50 ft. required; 36 ft. existing/proposed) to allow a deck to remain as constructed.**

Roger Kay stated that he needed a variance to reduce the setback for a 16-year-old deck.

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

Mr. Reilly read a draft resolution.

**Motion by: James Murphy**

**Seconded by: William Monti**

**Mr. Monti: Aye**

**Mr. Murphy: Aye**

**Chairman: Aye**

**Area variance granted as requested.**

*(Board member Richard O'Leary arrived at this time)*

**BA12-43 Vito Errico (3 Vails Lakeshore Drive) – Area Variance** – For construction of a deck extension, concrete pad for generator/ac condensers and installation of an underground propane tank 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). The following variances are requested:

- Decrease the minimum combined side yard setbacks from 15 ft./40 ft. required to 1 ft. 6 in./7 ft. 10 in. proposed (8 ft. 1 in./14 ft. 5 in. existing), a variance of 23 ft.
- Increase the maximum development coverage from 25% permitted to 30.5% proposed (26.8% existing), a variance of 6%.
- Increase the maximum building coverage from 10% permitted to 25.9% proposed (25.3% existing), a variance of 16%.

Richard Vail, architect, displayed photographs and drawings. He explained that his client would like to create a bridge from the lakeside deck to the terrace on the side of his house. In front of and below this deck extension will be a concrete pad for 2 air-conditioning condensers and a generator, built as low to grade as possible at the low end of the deck. Mr. Vail indicated steps to a terrace at one of the deck extension.

Chairman Ivanhoe noted the location of the propane tank where it will be well-hidden/safer behind a retaining wall.

Mr. Monti asked for the distance between the buried tank and the grinder pump, saying he was concerned about the danger of sparks.

The Building Inspector explained that a fuel source must be a minimum of 10 ft. from any source of ignition, but the grinder pump will be underground/have a wet motor.

Mr. Monti asked about the air-conditioning condensers.

Mr. Thompson stated that they must be 10 ft. from the propane tank bonnet. Mr. Vail said the generator will be set at least 10 ft. away also. He admitted the set-up will be close, but he said the tank can be moved over a little if necessary. He added that the generator and air-conditioning units will also be below the level of the retaining wall.

Mr. Thompson remarked that he thought the tank could be moved forward a little and said Mr. Monti's point was well-taken.

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

Mr. Reilly read a draft resolution, noting that the request was approved by the Vail's Grove Co-op. He read a condition that the distance from the fuel tank to both the air-conditioning equipment and the generator must satisfy the Building Inspector as to safety. Mr. Reilly asked Mr. Thompson if the site plan should be changed.

The Building Inspector replied that all the distances will be according to Code.

**Motion by:** James Murphy  
**Seconded by:** William Monti

**Area variance granted, as requested.**

**BA12-44 Steven Roberts (21 Vails Lakeshore Drive) – Area Variance** – To decrease the minimum side yard setback requirements 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 northern side yard variance of 10 ft. (15 ft. required; 10 ft. 1 in. existing; 5 ft. 6 in. proposed) and a southern side yard variance of 17 ft. (25 ft. required; 15 ft. 1 in. existing; 8 ft. proposed) are requested for construction of a deck.

Mr. Vail addressed the Board again, stating that Mr. Roberts wishes to have a deck on the lake-side of his house that will run the width of the house and a little out to the sides to accomodate steps to the deck from below.

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

Mr. Reilly read a draft, noting that Mr. Roberts had the approval of the Vail's Grove Co-op.

**Motion by:** James Murphy  
**Seconded by:** William Monti

**Mr. O'Leary:** Aye  
**Mr. Monti:** Aye  
**Mr. Murphy:** Aye  
**Chairman:** Aye

**Area variance granted, as requested.**

**BA12-45** Jodi/David Smyth (1 Westview Avenue) – **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 9 ft. is requested (35 ft. required; 26 ft. existing/proposed) to allow an above-ground pool to remain as installed.

Jodi and David Smyth were present. Mrs. Smyth said they merely wanted to be allowed to keep their pool as installed. She added that the rear property line is adjacent to Route 684, and the pool is not near any neighbor's house.

The Chairman asked the Building Inspector if everything is up to Code standards.

Mr. Thompson replied that it is.

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

Mr. Reilly read a draft resolution, including the findings that there were no objections from any neighboring property-owners and the subject property borders 684.

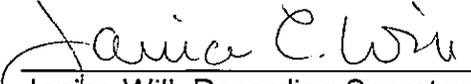
**Motion by:** *William Monti*  
**Seconded by:** *Richard O'Leary*

**Mr. O'Leary:** *Aye*  
**Mr. Monti:** *Aye*  
**Mr. Murphy:** *Aye*  
**Chairman:** *Aye*

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

The meeting was adjourned at approximately 8:10 pm.

Respectfully submitted,

  
Janice Will, Recording Secretary