

**BOARD of APPEALS**  
**Public Hearing**  
**March 14, 2013**  
7:30 p.m., The Annex

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

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

*Chairman Brian Ivanhoe called the March 14, 2013 Town of North Salem Zoning Board of Appeals meeting to order.*

The Chairman noted the large number of people present at the meeting. He said the Board normally calls on everyone who wants to comment, and they would try to do so this evening. The Chairman asked that when people are called on, they give their names and addresses so the Board will know they have received Notices of the application and could be directly affected by the proposed action.

The Chairman set the next meeting for Thursday, April 11, 2013.

The minutes of the February 14, 2013 hearing were unanimously approved.

**PUBLIC HEARINGS:**

**BA13-09** The Farmer and the Fish (100 Titicus Road) – **Area Variance** – For expansion of an existing non-conforming parking area within the required front yard, per Article VI Section 250-20.

Michael Liguori of Hogan & Rossi stated that the applicant had been detained and asked if the application could be heard later.

Chairman Ivanhoe said that could be done, although it might be quite a wait.

**BA13-10** Monomoy Farm LLC (806 Peach Lake Road) – **Special Permit** – For the keeping of up to 20 horses and maintenance of a commercial boarding operation including construction of 10 additional stalls, per Article XIII Section 250-72.

John Arons, attorney, and Jeri Barrett, planner were present. Mr. Arons stated that his client was granted a special permit for 10 horses in 2005 and now wishes to increase the number of horses to 20. He said the subject property has nearly 85 acres and his client plans to build

another 10 stalls. Mr. Arons stated that his client intends to perform the operation of the farm in compliance with the conditions of the special permit as he has in the past.

The Chairman asked if the 10 stalls that were present on the property have been removed.

Mr. Arons replied that they are gone, and Monomoy was granted a waiver by the Town Board so they might proceed with the special permit application. He stated that the new stalls will be constructed in the same area as those that have been removed.

Jeri Barrett indicated an area to the rear of the indoor riding arena where he said it will be out of sight and 150 ft. from the property line.

Chairman Ivanhoe asked if the new stalls will be connected to the arena.

Mr. Barrett explained that there will be a 10 ft. space between the 2 structures, and the horses will have access to either green space or a covered aisle.

William Monti asked if Monomoy was surrendering the current special permit to apply for a new one.

Mr. Arons said that as the current special permit will expire in 2 years, they would prefer to have a new one for 10 years.

The Chairman commented that it was a good idea.

Cynthia McKean said the farm is beautifully maintained.

Kevin McGuire of 3 Old Salem Center Road said he had wanted to know where the new stalls would be built, and it now seemed that they would not be near his property.

Mr. Barrett pointed out that the stalls (northwest portion of property) will be about as far away from Mr. McGuire's property (southeast of subject property) as possible, and Mr. McGuire said it was fine.

The Chairman remarked that maintaining such a large farm keeps the land from being developed. Noting there were no further questions or comments, he closed the public hearing.

Mr. Reilly read a draft resolution, noting that all the conditions in BA05-12 will be part of the new special permit, it will include the addition of 10 more horses and stalls and expire in March 2023. He added that the Building Inspector has reviewed the application and advised Mr. Reilly that there is no problem with the proposed expansion of the well-run operation.

Chairman Ivanhoe asked to have a condition included that any lighting added not be visible at its source.

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

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

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

**BA13-11 Hilltop Stables LLC (39 Hilltop Drive) – Area Variance** - To increase the maximum permitted height of a fence in a front and side yard per Article VI Section 250-22 (C). A side yard variance of 3 ft. (5 ft. permitted; 8 ft. proposed) and a front yard variance of 4 ft. (4 ft. permitted; 7 ft./5 in. proposed) are requested for construction of lighted piers and installation of a gate and deer fencing. Additionally, a front yard setback variance of 11 ft. is requested for installation of a generator (75 ft. required; 64 ft. proposed).

Carmine Luppino, contractor, and John Shea, property manager were present.

Mr. Luppino stated that an alternative location for the generator was found, so there was no longer any need for a setback variance for it.

Displaying a site map, John Shea pointed out the new generator location (235 ft. from the nearest property line) and that of the proposed entry gates. He said the fencing will be 6 ft./ 3 in. high along the western property line and 8 ft. high on its other sides.

Mr. Luppino showed photos of the type of fencing taken from 6 ft. away and 50 ft. away, and also of the gates/piers to be constructed, adding that the black wire fencing is scarcely visible.

Mr. Shea offered the Board a sample of the fencing material. He explained that the fencing is wanted both for deer deterrence/to protect plantings and for security (a single woman will live on the property).

Chairman Ivanhoe said the Board does not normally like perimeter deer fencing, but the subject property is substantial (approx. 33.32 acres) and only a portion of it is to be fenced.

Mr. Shea said the fence will cover approximately 25% of the total lot.

Mr. Monti asked what plantings Mr. Shea was referring to.

Mr. Luppino stated that the planting will be done in the future.

Mr. Monti asked if consideration had been given to kinds of plants that deer don't eat, and Mr. Luppino said it has.

Mr. Monti remarked that other properties on Hilltop Drive don't have deer fencing. He stated that deer will not jump over 2 rows of shorter, parallel fences installed about 5 ft. apart.

Mr. Shea said there is not enough room for such an installation on one side of the property, and the fence is also wanted for security. He agreed that there are some plants that deer don't like, but they are not as attractive as what is wanted.

Mr. Reilly noted that while there may be a single young woman living on the property now, someone else will reside there in the future, while the variance will run forever.

Ms. McKean pointed out an existing stone wall that will be between the deer fencing and several neighbors, saying the fence will really not be visible from either the neighboring properties or the street.

Mr. Monti said he was concerned about the possible precedent of approving an 8 ft.-high fence, adding that that is very tall.

James Murphy asked what could be done instead.

Mr. Shea offered to lower the fence height to 6 ft./3 in. like the other section, bringing it down 2 ft.

The Chairman remarked that sometimes deer get over a 6 ft. fence, but that would be a reasonable option.

Mr. Monti said they will not jump a double fence, but Mr. Luppino said such fencing would actually be much more visible.

Chairman Ivanhoe noted that it would require more maintenance also. He said he would not want to see the entire property fenced but, except for one side, the proposed fence will be within the subject property/not close to the property lines.

Mr. Shea pointed out that one side of the fence will run along a 3-acre, vacant property also owned by the applicant. He indicated a 100 ft.-wide utility easement on the west side of the subject property (where the stone wall is) between 39 Hilltop and all the neighboring properties on that side.

Philip Leslie of 37 Hilltop Drive was called on, and he asked if the gate pillars are to have lights on them.

Mr. Shea said the proposed top lanterns have been removed and up-lights set on the ground will be employed instead.

The Chairman asked if there will be any sort of sign at the entrance, and Mr. Shea responded that there will be no sign.

Michael Strong of 31 Hilltop Drive said he had spoken to Mr. Shea the day before and just wanted to see the fencing sample. Admitting that he thought the request was for a perimeter fence, he asked to be shown where the fencing will be, and Mr. Shea pointed out the area to be fenced. (*Portion of fence opposite 31 Hilltop will be separated by utility easement and also partially obscured by stone wall.*)

Mr. Strong asked if the proposed product is standard fencing.

Chairman Ivanhoe said there are other types also, including all poly-fiber and some of coated metal. He said the proposed fencing will wear well.

Mr. Shea showed the photos of the fencing again, one taken from 6 ft. way and one from a distance of 50 ft. He said the Strong property line is over 100 ft. away.

Mr. Strong asked if the fence will be uniform in height.

The Chairman explained that all fencing over 5 ft. in height (*side and rear yards; 4 ft. front yard*) requires a variance, although deer fencing is usually 6 ft. high. He added that although the Board generally does not like to see perimeter deer fencing, this fence will only enclose a portion of the property to protect plants and is more acceptable.

Mr. Strong asked if the fence is primarily wanted to prevent deer transit, and Mr. Shea replied that it will also be for security.

Mr. Strong asked how it will impact deer travel in the neighborhood.

Mr. Luppino said the fence will enclose fewer than 8 of the more than 33 acres.

Mr. Shea stated that there are a lot of woodlands, and deer mostly pass through on the opposite side of the subject property.

Chairman Ivanhoe said cutting off deer travel is the main reason the Board doesn't like perimeter fencing.

Mr. Strong said he had no objection to the request, but would like the fence to be as low as possible.

Mr. Shea said the fence will be 6 ft./3 in. high on the side and separated from Mr. Strong's property by the stone wall and the utility easement.

Chairman Ivanhoe asked that the entire fence be no more than 6 ft./3 in. high all the way around/not have any sections that would be 8 ft. high.

Mr. Reilly asked how tall the gate piers will be without the top-mounted lights.

Mr. Shea answered that they will be 6 ft./10 in. tall.

Ms. McKean asked if there will be landscaping by the piers, and Mr. Shea answered that they will be extensively landscaped.

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

Mr. Reilly read a draft resolution, noting that the applicant agreed to lower the height of the fencing, the fencing will mostly not be visible/the neighborhood will not be negatively impacted, and including the following conditions:

- All fencing to be a maximum of 6 ft./3 in. high.
- Gate piers to be a maximum of 6 ft./10 in. tall with no attached lighting.
- Gate area to be landscaped.

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

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

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

**BA13-09** The Farmer and the Fish (100 Titicus Road) – **Area Variance** – For expansion of an existing non-conforming parking area within the required front yard, per Article VI Section 250-20.

Viktor Solarik, architect, and Edward Taylor, proprietor, arrived at the meeting, apologizing for being late.

Mr. Solarik stated that the application was referred to the Board of Appeals by the Planning Board. He explained that his client is before the Planning Board for an amended site plan approval, as it was last approved in 1995 and included all aspects of the subject property. Mr. Solarik said they are working to meet parking requirements for the restaurant; there is an existing lot with 12 spaces that needs to be upgraded and expanded to 41 spaces to meet the requirement, and it is within the front yard setback. He said the lot will have the same setback as exists now, but the addition of more spaces requires a variance.

Chairman Ivanhoe said he had no questions, adding that the restaurant seems to need more parking. He remarked that the restaurant has added value to both the property and the community.

Mr. Solarik stated that there are a wall and mature trees in front of the parking lot that will screen all but the tops of the cars from view.

The Chairman commented that the expanded lot will be a safety improvement over the current use of an area across Route 22 from the restaurant.

Ms. McKean asked if there will still be just one way in/out of the parking lot.

Mr. Solarik said it will still be one-way for safety reasons.

Mr. Monti asked about the employee parking.

Mr. Solarik pointed out the 2 spaces on another part of the subject property, and mentioned that the area may be used to park more cars when the office in that location is closed.

Noting that the addition of dining space on the second floor would require even more parking, Mr. Monti asked how that will be managed.

Mr. Solarik admitted it won't be easy, saying the septic system also had to be dealt with, and that takes up room. He stated that the Planning Board was asked to consider an area behind the office on the other part of the lot, but nothing has been decided yet.

Mr. Monti asked if the applicant anticipated needing to come to the Board of Appeals again, and Mr. Solarik said it was possible.

Mr. Monti asked if the expanded parking lot is to be paved, and Mr. Solarik responded that it will have a gravel surface.

Mr. Murphy asked if it wouldn't be necessary to get permission from the Town to park across Route 22, and Mr. Solarik answered that he thinks it is DEP-owned.

Mr. Taylor said his greatest concern was to create enough safe parking so people won't cross Route 22.

Ms. McKean said the existing parking area is quite narrow and asked if it will be widened.

Mr. Taylor said some of the farm area will be sacrificed to square-off the parking lot/make it wider to allow better maneuverability.

Mr. Solarik noted that the existing configuration of the parking area is not in compliance now and must be widened to allow 2 rows of parking spaces.

Chairman Ivanhoe asked if there is a lighting plan.

Mr. Solarik said they plan to have low bollards installed on the ground/no sky exposure.

Mr. Taylor said he has been advised that he may put down some gravel and install a few lights in the existing parking area now for maintenance/safety purposes.

Mr. O'Leary asked how many new parking spaces there will be.

Mr. Solarik said the lot to be expanded will increase from 9 to 41, plus the 2 employee spaces to be added for a total of 43.

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

Mr. Reilly read a draft resolution, noting that, in its referral memo of February 20, 2013, the Planning Board recommended granting the variance. Mr. Reilly also stated that the Board of Appeals' approval was conditioned upon site plan development approval from the Planning Board, and any future changes will require reapplication to the Planning Board for approval.

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

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

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

**BA13-12 DF Land LLC (9 Turkey Hill Road) – Special Permit** – For the keeping of up to 10 horses and maintenance of a commercial boarding operation, per Article XIII Section 250-72.

Mark Benko, contractor, addressed the Board, saying his client would like to be granted a special permit for commercial boarding of 10 horses and to increase the number of stalls in an existing barn. Mr. Benko explained that the increased stable space (from 6 to 10 stalls) will be created within the existing barn/there will be no change in the barn's footprint. He said this will be accomplished by moving an office and tack room to the second floor of the barn, for which a new dormer will be constructed.

Mr. Reilly asked if any area variances are needed, and Mr. Benko said there are not.

Ms. McKean asked if there is enough room in the barn for the 4 additional stalls, and Mr. Benko replied that there is.

Chairman Ivanhoe asked if the application was for an amendment or a new special permit.

Mr. Reilly said it should be a new special permit because of the change from private use to commercial boarding. He stated that all the conditions in existing special permit BA05-17 will apply.

The Chairman asked if there is a central-station alarm in the barn, and Mr. Benko said there is.

Mr. Monti asked if someone lives on-site, and Mr. Benko replied that they do.

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

Mr. Reilly read a draft resolution, noting that the subject property consists of nearly 50 acres and that the Building Inspector looked at the application and saw nothing inappropriate/ recommended that the special permit be granted.

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

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

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

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

**BA13-13** Glenn Greenberg (234 Hawley Road) – **Special Permit** – For the construction and maintenance of an accessory apartment in a secondary structure, per Article XIII Section 250-68.

Don Rossi, attorney, addressed the Board, stating that Mrs. Linda Greenberg and Tim Allen, engineer, were also present.

Mr. Rossi said the approximately 30-acre property is the former Mott estate which has fallen into disrepair, and the Greenbergs will revitalize the property by building a new home there. Mr. Rossi said the accessory structure will be on the site of an old barn or cottage for which there is no Certificate of Occupancy and will be approximately the same size.

The new structure is to be a home for a caretaker, his wife and 3 children. Mr. Rossi said granting a special permit for a larger than standard-size accessory apartment is appropriate for a family of that size, consistent with the property and also appropriate because no additional dwellings are proposed. (*New main house to replace existing house; caretaker's house to replace barn.*) He stated that the caretaker's house will be 600 ft. from any neighboring residences, and the caretaker provides maintenance and security for the property.

Mr. Allen said the new dwelling is a reasonable size for a family with 3 children.

Mr. Rossi stated that there will also be a garage. He pointed out the location near an old tennis court on a site map of the property.

Chairman Ivanhoe stated that the elevation drawings show no exterior lighting. He said the Board would require down-lighting/ exterior lights may not be visible at their source. He asked if Mr. Rossi had said the caretaker's house would be 600 ft. from other houses in the neighborhood.

Mr. Rossi said it will be a greater distance than that/he had estimated the distance.

The Chairman commented that the property is quite large; even though the caretaker's house will be somewhat large, it seems appropriate.

Mr. Reilly stated that up to 25% of the size of the main residence is acceptable, and the caretaker's house will be less than that.

The Chairman noted that the main house will have 15, 000 sq. ft. and Mr. Monti added that the caretaker's house will have 3,500 sq. ft.

Mr. Rossi indicated neighboring houses on the site map.

Chairman Ivanhoe asked if any of the subject property is under a conservation easement.

Mr. Rossi replied that it is not. He said an existing cottage is to be removed, so there will be one less dwelling unit than the property is entitled to, because such a large lot may have 2 accessory dwellings.

The Chairman commented that a conservation area on such a large parcel would be nice to see.

Albert Szabo of 260 Hawley Road asked if the woods on the side of the subject property next to his property will be preserved.

Mr. Rossi said there are currently no plans to remove the trees, and construction of the main residence is not a subject of the application. He said he did think his clients would want to maintain the wooded area for their own privacy.

The Chairman asked if the wooded area is in Lewisboro/under Lewisboro's jurisdiction, and Mr. Rossi responded that it is in North Salem.

Mr. Allen stated that the aim will be to maintain the wooded area.

Mr. Szabo said his concern was that the house will be very big, so he would like to see the trees remain.

Chairman Ivanhoe asked how far the new house will be from the Szabo house.

Mr. Szabo was not certain of his house's setback, but Mr. Allen explained that the Greenberg house will have a setback of 75 ft. and there will be a series of stepped walls and minor grading/the house will sit down somewhat.

Mr. Szabo asked how much tree-clearing there will be between his property and the new house.

Mr. Allen said he believes the Greenbergs will want to keep a buffer area of woods, and the house will be 75 ft. from the property line. He added that he can discuss it with his clients.

Mr. Szabo asked if the new drainage system will run towards or away from his property.

Mr. Rossi stated that the Town requires that any drainage plan be examined by the Town Engineer.

Mr. Allen said the area was tested, and drainage will go away from the Szabo house.

Mr. Reilly said the applicants will be required to take care of all drainage.

The Chairman added that all storm water is handled by gutters, leaders and infiltrators, which lead water to percolate into the ground.

Mr. Rossi said there is also a requirement that there be zero site run-off increase from pre-construction conditions; any run-off must be contained and treated on-site/it is very tightly regulated.

James Actis of 258 Hawley Road said he was concerned about lighting.

Chairman Ivanhoe stated that the Board supports a dark-sky policy, so lights may not be visible at their source, no floodlights, etc. would be permitted.

Mr. Actis said he was more concerned about lights on the driveway.

Mr. Rossi said he didn't know what is planned for the driveway, but he was sure Bruce Thompson would require subtle down-lighting.

Noting that he received a Notice of the Greenberg's special permit application, Mr. Szabo asked how he will know if they plan to clear trees.

The Chairman said they will need to request a permit from the Planning Board.

Mr. Rossi said the Town has a tree-slashing code; an exemption is removal of trees as necessary for construction of a house. If the clearing is not exempt, people need to apply to the Planning Board for a tree-slashing permit.

Mr. Szabo said a significant number of trees have already been cut without a permit, but the Chairman said Lewisboro (where the trees were removed) does not require a permit.

Mr. Szabo said the area cleared was in both North Salem and Lewisboro.

Mr. Rossi reiterated that Lewisboro does not require permits for the type of clearing done.

Mr. Szabo countered that Lewisboro does require permits for tree-clearing on steep slopes, and the area cleared is a steep slope.

Mr. Allen said there were a lot of storm-damaged trees in the area Mr. Szabo was referring to, and he spoke to Mr. Thompson about it.

Mr. Szabo said the 2-acre area was clear-cut before Hurricane Sandy.

The Chairman said it was not anything that came before the Board of Appeals. He added that he thought the large project would be monitored very closely once it gets under way.

Mr. Allen said the next steps will be a building permit application and review by the Town Engineer.

Chairman Ivanhoe asked if the area Mr. Szabo was concerned about is in a viewshed.

Mr. Szabo said he didn't think it would be.

The Chairman remarked that it seemed clearing it would open up the Greenberg's view of Mr. Szabo's house, which he did not imagine they would want. He said he did not condone any tree-clearing that may have been done in the past, but it seemed unlikely that the area between the 2 houses would be cleared.

Alan Orling of 215 Hawley Road said he knows the land, and he welcomes the Greenbergs. He said he did have concerns about their septic possibly affecting his water supply, because there is a lot of ledge. He further stated that there have been drainage problems on Hawley Road in the past, and it tends to run onto his property where it stays for quite a while. Mr. Orling said he would like to be assured that the proposed project will have no effect on him. He remarked that so many trees have been uprooted that the ground is quite soft, and it is so heavily shaded that it doesn't dry quickly.

Mr. Allen stated that Mr. Orling was correct about there being a lot of ledge on the subject property, but he has located acceptable septic and storm-water infiltration areas.

Someone asked if Mr. Allen was referring to a new septic location, and Mr. Allen pointed out the new location.

Mr. Orling asked if leeching fields in the vicinity of the barn to be renovated will be modernized, and Mr. Allen responded that it will all be updated.

Mr. Actis said his well is downhill from the new septic area.

Mr. Allen stated that a distance of 50 ft. is required from any well, and it will be much farther away than that.

Chairman Ivanhoe closed the public hearing.

Mr. Reilly read a draft resolution, noting that the subject property consists of over 30 acres and the larger-than-usual accessory apartment will be only about 20-25% the size of the main residence, and so is acceptable to the Board. He added that the project will have no adverse impact on the neighborhood and is subject to Department of Health and Building Department approval.

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

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

**Special permit granted, as requested.**

*The following applications were discussed together.*

**BA13-14** Six Delancey LLC (6 Delancey Road) – **Special Permit** – For the keeping of up to 18 horses and maintenance of a commercial boarding operation, including construction of an 18-stall barn and indoor riding ring and installation of a manure dumpster, per Article XIII Section 250-72.

**BA13-15** Six Delancey LLC (6 Delancey Road) – **Area Variance** – To decrease the minimum required acreage and increase the maximum building coverage for a commercial horse boarding operation, per Article V Section 250-15.

**BA13-16** Six Delancey LLC (6 Delancey Road) – **Special Permit** – For the construction and maintenance of an accessory apartment above a garage, per Article XIII Section 250-68.

Don Rossi, Tim Allen and Paul/Sarah Friedman, applicants, were all present.

Mr. Rossi stated that his clients have a lot of experience operating horse farms, and Mr. Friedman lives at Autumn Farms on Hardscrabble Road. This is a 25-stall commercial operation in excellent condition. Mr. Rossi said that in addition to experience in operating this kind of farm, Mr. Friedman has experience living on a commercial horse farm property. He noted that Ms. Friedman will reside at 6 Delancey Road if the Board approves the applications.

Mr. Rossi stated that the property at 6 Delancey consists of just under 10 acres and was part of the old Wallace farm years ago. Adjacent are the Little Mountain and portions of the Salem Estates subdivisions, Salem Estates having been created in the 1920's of 1-2 acre properties, including 6 Delancey Road. Mr. Rossi said that Little Mountain is made up of approximately 20 Salem Estates lots, and 6 Delancey Road is made up of 6 Salem Estates lots where 6 houses could have been built in the past. He pointed out that there is a proposed road through the 6 Delancey Road property. Mr. Rossi offered the Board copies of both the Salem Estates and Little Mountain subdivision plats.

Mr. Rossi remarked that the Little Mountain development was an indicator of a change in the overall character of the neighborhood; the new lots were significantly larger than those in Salem Estates and much more consistent with then current and today's development trends. He said the proposal for 6 Delancey Road is consistent with the character of the neighborhood/historical use of the property, consistent with its zoning classification (*the R-2 zoning district permits commercial horse-boarding stables*), and consistent with many of the properties in the area. Mr. Rossi noted that Hogan & Rossi represented the Mossman family when they developed Little Mountain. He said sales brochures for the development emphasized a more rural neighborhood character than previously anticipated and part of the whole North Salem rubric. He reiterated the appropriate aspects of the project, including its consistency with the goals and intentions of the Town's master plan.

Mr. Rossi said the subject property is currently improved by a commercial boarding stable and residence owned by Rene San Marco for many years. He stated that Ms. San Marco is very protective of her property and in seeing it maintained. In a letter to the Board, Ms. San Marco expressed her confidence in the Friedmans to make her property into a great farm.

Mr. Rossi stated that the future farm will be an exclusive, private commercial boarding stable where there will be no hourly renting of horses, no shows, no parking on Delancey Road and

limited truck traffic. The Friedmans desire to operate their farm as privately as possible for their boarders. Mr. Rossi said keeping 18 horses will prevent over-taxing of the land and permit the generation of sufficient income to maintain the beautiful farm buildings to be constructed on the property, including an indoor riding ring and 18-stall barn. He said the buildings are to be constructed by King Construction, whose track record in Town is very good. Mr. Rossi noted that the farm buildings at Pavilion Farm were constructed by King. He said the proposed plan takes into account some of the existing features of the subject property, and the building closest to the northern property line will be the proposed garage with apartment, which will have a setback of approximately 170 ft.

Mr. Rossi stated that there is also an application for a special permit for this accessory apartment, because the lot is too small for employee living quarters. The apartment will be occupied by persons employed by the farm, because in addition to the significant benefit afforded by Ms. Friedman living on the property, it is necessary for a top-notch boarding farm to have on-farm help. Mr. Rossi said the garage will be situated in close proximity to both the indoor ring and stable and will be similar in appearance to the main farm buildings. He remarked that his clients are committed to extensive landscaping for screening that will be part of an overall landscaping plan for the indoor ring, barn and manure pit.

Mr. Rossi said he and his clients recognize and happily accept all of the customary conditions imposed on special permits of this type, adding that the key thing is that those conditions have been proven to minimize potential adverse effects. Displaying drawings of the proposed buildings, Mr. Rossi said the Friedmans are open to suggestions about colors. He pointed out the cupolas on top of the barn, the front/end of which will face Delancey Road, and he said the indoor riding arena will have cupolas also.

Mr. Rossi acknowledged the receipt of various comments from neighbors, many of which are similar. He said he and his clients were very sympathetic to the neighbors, and he thought they had been responsive to requests made.

With regard to comments about traffic, Mr. Rossi said the proposed farm does not present a real change in the nature of Delancey Road. He stated that although there will be 18 horses kept on the farm, at no time will there be 18 cars coming in at once. He said he felt Mr. Friedman's empirical knowledge based on his experience with a 25-stall farm is a valuable resource for the Board to use in analyzing potential traffic impacts.

Regarding concerns about ground water and DEP issues, Mr. Rossi stated that these points are greatly provided for within the regulatory framework required for this kind of development. He said drainage facilities and septic systems will be designed by Tim Allen of Bibbo Associates (engineers), must meet the strict requirements of the County Department of Health, and will be inspected by the Building Inspector, Bruce Thompson.

As to odors and flies, Mr. Rossi said these too are legitimate concerns, but North Salem horse industry practices are such that he believes there will be no impact from either. He said Mr. Friedman will discuss this in terms of his own experience. Mr. Rossi stated that manure will be removed regularly (weekly or as needed), and the applicant will accept a condition that no accumulation of manure in the paddocks will be permitted. Mr. Rossi said these things are important, not only for the neighbors and ground water quality, but also to Ms. Friedman herself as she will live on the property. He described the manure pit, set below

grade with a container to be changed out. He said the Friedmans will employ fly-predator practices to prevent infestation with flies.

Noting that there was concern about increasing the number of horses on the farm in the future, Mr. Rossi said the Board would have to approve any proposed increase in the number of horses, a major benefit of the special permit process in Town.

Regarding concern for the privacy of residents of Spring Hill Road, he said he thought that when they hear more about the operation, it will be clear that there will be no reduction in privacy. Mr. Rossi commented that the proposed horse-boarding operation will have much less effect on people's privacy than if 2 or 3 houses were to be constructed on the subject property, let alone the 6 originally approved for the old subdivision. Mr. Rossi said he felt it was safe to say that at least 3 or possibly 4 houses could be built on the lot.

Mr. Allen added that construction of houses would also require development of a through road.

Mr. Rossi stated, that in response to Robert Busch's concern about the proposed driveway being directly across Delancey Road from his (3 Delancey Road), Mr. Friedman had already offered to move the driveway 20 ft. northward up Delancey Road. Mr. Rossi explained that the second driveway is needed to provide adequate/safe circulation on-site so there will be room for vehicles to turn around (hay and manure trucks are large), and moving the driveway northward will ensure that no truck movement impacts the Busch property.

Mr. Rossi said his clients have committed to extensive landscaping/screening, including tall trees, to break up the appearance of the expanse of the long indoor riding arena. A variety of plants are to be put in to look attractive.

Regarding viewshed, Mr. Rossi said his clients are sensitive to the neighbors' concerns. He said he believes only 2 houses will really be impacted by the proposal. He noted that the Rogers' house at 4 Spring Hill Road is directly uphill from 6 Delancey Road and currently unscreened; the Nelsons live at 8 Spring Hill, next door to the Rogers, but their house is oriented somewhat more toward the west and they have some evergreens. Mr. Rossi explained that Tim Allen prepared a cross-section drawing of the differences in grade so as to illustrate that, in addition to there being an attractive group of farm buildings, the view from 4 Spring Hill Road will mostly be over the tops of the proposed buildings at 6 Delancey Road. Mr. Rossi displayed the drawing of the proposed indoor riding ring and pointed out the sight-line from 4 Spring Hill Road. He explained for purposes of perspective that the existing barn is 25.5 ft. high, and the indoor arena will be 30.5 ft. high.

Mr. Allen said the drawing shows how far downhill the farm buildings will be with a 45 ft. grade-change and separation distance of over 500 ft.

Mr. Rossi stated that he thought it was important to hear all the neighbors' comments, but he thought the view out over the tops of the indoor ring would still be good. He noted that the drawing did not include the cupolas, but he felt they would enhance the overall appearance of the building.

Chairman Ivanhoe asked how high the indoor arena will be with the cupolas on top.

Mr. Rossi said it would be a maximum of 35 ft. high.

The Chairman said there may be no lighting in the cupolas. He explained that if an indoor arena is used at night, sometimes the light emanates from these kinds of cupolas, and he said they can be vented or blacked out.

Mr. O'Leary asked to see elevation drawings of the indoor riding ring, and he then commented that there appeared to be the same number of windows on both long sides.

Mr. Rossi noted that there were 2 more windows on one side than the other, and he attributed them to a viewing room on the inside.

Chairman Ivanhoe asked Mr. Rossi if he had more to present, but Mr. Rossi replied that he wanted to ask Paul Friedman to talk to the Autumn Farms experience, which should be helpful to the Board and the neighbors.

The Chairman said he wanted to make one comment with regard to north-facing windows, and he suggested that when lighting is being planned for the barn there will probably be numerous sets of lights, but night-check only requires a very few lights.

Sarah Friedman said she has a switch that turns on one light at each end of the barn for night-check at Autumn Farms, and that is what she would have at 6 Delancey Road.

Mr. Rossi introduced Paul Friedman who remarked that his daughter is an excellent trainer, and they are trying to build a beautiful horse farm on a lovely piece of land. He said they are very conscious of environmental issues and the issues of neighbors. He stated that they have owned Autumn Farm for 15 years, transforming the former Tompkins dairy farm into a horse farm, and it is recognized as one of the most beautiful horse farms in the area and in Westchester. He said they have never had a complaint but once, when the Building Inspector found that one of their exit lights was not working.

Mr. Friedman explained that he and his wife live closer to 2 barns and a manure pit at Autumn Farms than anyone on Delancey or Spring Hill Road will be to the farm at 6 Delancey Road, and his daughter will reside there and be much closer to the barn than anyone else. Mr. Friedman stated that they do not live with flies or odors, because they know what they are doing. He said they use a predator fly-system and an automatic spray system within the barns. He added that they know what to do with manure; they have a pit, the dumpster is picked up at least once a week/more when necessary. Mr. Friedman said they have also learned some things from Autumn Farm, and when they build at 6 Delancey Road they will have the manure pit area screened.

Mr. Friedman stated that they know how to rotate their horses through the paddocks and how to pick the paddocks, and they know how to create all-weather paddocks so they are not destroyed by mud/may be maintained in grass.

Mr. Friedman said he understood the neighbors' concerns about the possibility of increased traffic for a farm with 18 horses, but his clients are 6 adults with 10 horses and 3 children with 5 more, for a maximum of 9 cars. He said that at Autumn Farm, where they have 25 horses, he has never seen more than 5 cars at a time, adding that he cares because they pass him.

Mr. Friedman stated that the way his daughter runs her business is that she wants to give people privacy and time alone, so adults usually come alone during the week in the morning, and children come after school and on the weekends. He added that they arrange to have the manure dumpster truck and a garbage pick-up on Mondays when the barn is closed, so they would be the only traffic in/out of the farm that day. Mr. Friedman said hay/shavings are delivered once every 5 weeks because they take a full load and there will not be trailer traffic, because his daughter does not run a show barn/the horses mostly stay at the farm.

Mr. Friedman stated that they sent out 11 letters by Certified Mail and they have had 6 objections. Of those, 2 availed themselves of his invitation to visit Autumn Farms and talk to them, and they managed to work out a compromise with Mr. Busch. He said he had also had the impression that Mr. Nelson was satisfied after he visited Autumn Farms. Mr. Friedman said he and his daughter were present to answer any questions.

The Chairman thanked Mr. Friedman.

Mr. Rossi said he has been in Town since 1980, and there was always a lot of talk about the horse farm people coming into Town and the differences between old-timers and new people. He remarked that the Friedmans have put down roots and live here, which says a lot about the new farm's prospects going forward; it will not have an absentee owner and it is not purely an investment.

Chairman Ivanhoe said he had been glad to hear that the Friedmans use fly-predator systems, adding that they work best when neighboring farms employ them as well. He noted that he is familiar with Autumn Farms, and it is a model of what the Board would want to see. He said the plan for 6 Delancey Road is ambitious, but the Friedmans have addressed the issues raised. The Chairman stated that there will be a lot of oversight during construction. He said the all-weather paddock is a good way to preserve the grass paddocks during the wet season, and he asked if 6 Delancey Road is in the County Agricultural District.

Mr. Rossi said it is not, and he was surprised that the current owner had not applied for inclusion in the District. He said Mr. Friedman will apply.

Chairman Ivanhoe pointed out that there are other large farms in the neighboring area, including Windswept Farm and Little Creek Farm at the top of the hill on Hardscrabble Road.

Mr. Rossi added that there are also 3 or 4 smaller/private farms right along Delancey Road, so the proposed farm at 6 Delancey will certainly be consistent with existing use in the area.

The Chairman asked if the re-located second driveway will be wide enough so that trucks may turn in and out without damaging the road shoulder on the opposite side of Delancey Road.

Mr. Allen said the entrance will need to be flared a little, but they will make sure there is enough room.

Mr. Rossi stated that it is another aspect of the project that will be under scrutiny by both the Building Department and the Highway Department.

Mr. Allen stated that the second driveway will absolutely not be right across from the Busch driveway.

Ms McKean asked if the hay and shavings are off-loaded or kept in the delivery trailer, and Mr. Friedman answered that they will be off-loaded.

Regarding a comment about wet ground in one of the letters to the Board, Ms. McKean asked if the Friedmans have seen the paddocks at 6 Delancey at different times of year. She said it could be an issue when turning out a lot of horses if the ground is soggy.

Mr. Friedman said there are drainage issues to deal with, but the soil seems to him to be similar to that at Autumn Farms, and horses will only be out in the paddocks for about an hour a day per horse and the paddocks are rotated. He added that there is only a little more paddock space at Autumn Farms than they will have at 6 Delancey Road, and they have more horses at Autumn Farms.

Ms. McKean said Autumn Farms is beautifully maintained, but it is higher up than 6 Delancey Road.

Mr. Friedman said his feet had sunk into the ground at Autumn Farms while walking his dog, so he thinks it is very similar to 6 Delancey Road.

Mr. Allen said the whole Hardscrabble corridor is much the same, so he has a lot of experience dealing with the need for drainage.

Chairman Ivanhoe suggested consulting with the Watershed Agricultural Council for a farm plan that may help with drainage and water quality, and Mr. Friedman said he would do that.

Mr. Monti, noting the Agricultural Data Statement included in the application packet, asked what connection a property called Rural Illusion has to the application.

Mr. Rossi explained that it is the North Salem Vineyard property, and other agricultural properties in the area must be notified of applications for special permits.

Mr. Murphy noted that the Friedmans made some accommodations for Mr. Busch and asked if there was anything they could do for other neighbors who have objections.

Mr. Friedman said he sent them all a letter, inviting them to visit Autumn Farms and talk to him, and he is still willing to talk to them.

Mr. Murphy asked what the premise was for demonstrating the sight-line from the Rogers house.

Mr. Rossi said there was a letter or e-mail from the Rogerses regarding viewshed, and the Birds (6 Spring Hill Road) raised the issue also.

Mr. Murphy asked if there had ever been any neighborhood issues/complaints about the 6 horses kept at 6 Delancey by the current owner.

Mr. Rossi said he was not aware of any. He said he thought Ms. San Marco probably had a 2-yard, roll-off/above-ground dumpster, but the system the Friedmans will employ is different.

Chairman Ivanhoe said he figured they would have a 30-yard box that sits down below grade in the pit, and Mr. Allen said that was correct. When Mr. Rossi asked, the Chairman said he was not aware of any complaints to the Board about Ms. San Marco's property either.

Mr. Murphy remarked that it was said that 6 Delancey Road will not board show horses and there will be no trailer traffic to speak of, but he asked if that would be a limitation that stays with the property as long as the Friedmans own it and if a new owner would have to apply for something different.

Chairman Ivanhoe pointed out that a new property-owner would have to apply for a new special permit which would have essentially the same restrictions.

Mr. Murphy noted that the Friedmans say they will pick their paddocks and asked if Ms. San Marco had not done that.

Mr. Rossi said he did not think there had been any problems with the paddocks, because they appear to be in very good shape. He stated that his clients proposed it because the Board sometimes requires that paddocks be picked, and it was felt that it would raise the neighborhood comfort level.

The Chairman commented that it is a good practice. He said that in the past, many farms did not pick the paddocks and even spread manure, which is no longer permitted. Taking each application individually, presented with a request for a small number of horses on a large parcel, the Board might not require it; in this situation, they feel it will be appropriate.

Mr. Murphy asked if it was true that the property taxes for 6 Delancey Road would be lowered by an agricultural exemption.

The Chairman explained that the assessment would change, but only by about 10%, and that is not the same as a 10% reduction in taxes.

Mr. Rossi added that the assessment on the existing residence would not be reduced; the reduction would only apply to the land and farm improvements. He stated that, as part of an incentive to promote farming, new farm buildings are tax-exempt for the first 10 years.

Chairman Ivanhoe said that, generally, farms apply for an ag exemption more for protection under Ag and Markets law than for the tax exemption.

Mr. Rossi further stated that in North Salem, the special permit process has been permitted by Ag and Markets (the State), although new farms no longer need to go to the Planning Board for site development approval. He said the State does not really look on the process favorably, but they accept it as not being onerous.

Mr. O'Leary asked which applications are linked to which of the agenda numbers BA13-14, BA13-15 and BA13-16.

Mr. Rossi stated that BA13-14 is the special permit application for the farm; BA13-15 is the area variance application; BA13-16 is the special permit application for the accessory apartment.

The Chairman called on William Nelson of 8 Spring Hill Road.

Mr. Nelson explained that he was present out of personal interest and also to represent his neighbors, William and Jane Bird of 6 Spring Hill Road, who are in Florida. Mr. Nelson read aloud the Birds' letter to the Board (*part of application file*). The letter included comments that commercial boarding of 18 horses and an indoor arena will not be in keeping with the character of the neighborhood, fear that the operation will decrease residential property values, concern about possible odors/flies and the DEP watershed area. Mr. Nelson noted the presence of many of his neighbors and offered to yield to them.

Mr. Rossi suggested responding to a few comments as they come up. In response to the letter from the Birds, he stated that the subject property has always been zoned for commercial horse-boarding/no zoning change is being requested. Re concerns about the DEP, Mr. Rossi said they received the Notice to Property-Owners and there has been no comment. He said he does not believe that property values are negatively affected by proximity to beautiful horse farms, and the proposal for 6 Delancey Road will upgrade the property.

Mr. Nelson said he had spoken to the DEP who acknowledged that they have no authority over the application, but they are happy to provide comments that might be sought by the Board regarding potential impacts of the proposal.

Chairman Ivanhoe remarked that DEP comments are usually received later.

Mr. Allen stated that the proposal has been under DEP review re potential disturbance during development of the property, and the Town Engineer has reviewed the plan also.

The Chairman said it was his understanding from talking to the Building Inspector that there will be a lot of DEP oversight all through the project.

David Sandbank of 5 Delancey Road was called on, and he said he was concerned about the driveway. He said he did not have a lot of objections and believed the farm could add value to his property; however, the relocated driveway to be used by large trucks will now be right opposite his property/his children's school bus stop. Mr. Sandbank asked why the Friedmans cannot use the existing driveway, adding that it seemed possible that Ms. Friedman doesn't want large commercial vehicles driving in close to her house.

Mr. Allen displayed a drawing with the existing and proposed driveways, describing the new location as between the Busch and Sandbank properties/closer to the Busch property.

Mr. Murphy asked why the driveway has been moved uphill, and the Chairman explained that it was originally right opposite the Busch driveway (3 Delancey Road).

Mr. Murphy explained that he meant why not use the existing driveway.

Chairman Ivanhoe asked Mr. Allen to explain why the proposed new driveway is necessary.

Mr. Allen said there are circulation issues for getting in/out of the existing driveway; the new driveway will have a loop to facilitate trucks. He stated that use of the existing driveway could be discussed, but the proposed second drive will definitely provide better circulation.

Mr. Rossi stated that there is a row of trees along the existing driveway, and they would have to be removed to widen it. He said circulation is key; trucks turning in from the road need to be accommodated inside the property to facilitate their exit.

Chairman Ivanhoe asked Mr. Allen what he thought about altering the existing driveway to be able to handle the flow.

Mr. Allen said it would require more impervious surface.

Mr. O'Leary asked if the current plan is for trucks to come onto the property one way, make a loop and go back out the same way without coming into the interior of the property.

Mr. Allen said the loop is near the proposed barn, indoor arena and manure pit. He said trucks could come in at the front entrance.

Ms. McKean said this would make it harder to access the manure dumpster and deliver large quantities of hay and shavings.

Mr. Allen agreed that it would be awkward.

The Chairman asked if the proposed set-up is a back in/drive out situation.

Mr. Allen said that could be done/it is a matter of driver preference.

Mr. Rossi said the existing driveway would need to be flared out, and the existing house is quite close to the road. Re-working the existing driveway would be very disruptive and a lot of trees would have to be sacrificed.

Chairman Ivanhoe commented that using the existing drive would affect the neighbor at 1 Delancey Road. He asked what size trucks would be making the hay/shavings deliveries.

Ms. Friedman said it will not require a tractor trailer. She added that she had given a lot of thought to the driveway, and it seemed that use of the existing driveway (bordered by stone pillars) would be more of a problem. The new driveway with its loop will make it much easier for trucks to drive in, turn around, and go out. She said she learned a lot about what works at Autumn Farms, and drivers need to be able to see clearly where they should go.

Chairman Ivanhoe asked for the size of the loop.

Mr. Friedman replied that it is about 60 ft. across, adding that he thought there was a Code requirement re size.

Mr. Monti asked how many trucks per week were anticipated.

Mr. Friedman said there would be 2 trucks per week; one for manure and one for trash pick-up. Hay/shavings would be delivered every 5 weeks.

Chairman Ivanhoe asked if there is room to swap the out-going manure container for the new empty one, and Ms. Friedman said there is.

Dawn Caruolo of 3 Spring Hill Road said she lives across the street from the Rogers/will not be directly affected by the new farm. She asked if moving the driveway means trucks will be driving farther up Delancey Road/closer to the Rogers house.

Mr. Friedman said the trucks will be driving 20 ft. farther up Delancey Road after turning in from Route 116/Titicus Road.

Mr. Allen pointed out the originally-proposed location of the new driveway and the new location, 20-25 ft. farther up Delancey Road.

Ms. Caruolo said her concern was that the trucks will be driving across the subject property farther north/closer to the Rogers property, adding that it is quite a distance from the existing driveway.

Mr. Friedman said trucks have always driven in that direction on the property.

Ms. Caruolo said they will be driving much closer to the Rogers' house now, and Mr. Rossi said it will be about 80 ft. closer than before.

Someone said trucks don't only drive up Delancey Road; they also go down the street.

Ms. Caruolo said it is already dangerous to walk on Delancey Road, given the amount of traffic and the vehicles' speed; even if the new farm doesn't add a lot more traffic, it will add vehicles whether they've come from 116 or from Hardscrabble Road.

Mr. Rossi commented that people drive too fast on many roads in Town and there is already truck traffic, but the proposed project will not raise the level of danger to a point where it should dissuade someone from approving it.

Ms. Caruolo said she and her neighbors are not used to projects of the magnitude of the Friedmans' proposal. She noted that the neighborhood has been the same for a long time. Remarking that Ms. San Marco has a permit for the keeping of 6 horses, Ms. Caruolo said there have not been even that many in quite a long time, so the comparison is really not from 6 to 18 horses, but rather is more like an increase from 2 rescue horses to 18. She said she was not concerned about the size of the proposed buildings.

The Chairman said the Board appreciated that people came to express their concerns, because that is why they hold public meetings. He said the Board takes them seriously, which is why they look very hard at an increased horse-count; who's running the operation/ what is their history, is the property adequate in size to support the operation. He said the special permit process is in place so farms can be monitored to make sure they are good neighbors, and also to limit the time-frame; special permits for the keeping of horses need to be renewed after 10 years and may not be passed on to new owners. Chairman Ivanhoe

explained that over the course of a special permit term, concerns about an operation may be expressed to the Building Inspector, who also conducts yearly fire safety inspections. The Chairman said the Board takes these applications seriously and they all live in Town; some near horse farms, some on horse farms, and some next to horse farms with more intensive use of the land than others.

Mr. Nelson said he thought it might be difficult for some people to envision the size of the proposed indoor riding ring, so he explained it is large (long) enough for two 737 jets parked end-to-end, with only the rear rudders and a small amount of wing-tip showing.

The Chairman thanked Mr. Nelson for this description, and he added that indoor riding arenas are not an uncommon sight in Town.

Mr. Nelson said it would be extremely uncommon in his neighborhood.

Richard and Nancy Rogers of 4 Spring Hill Road were also present. Mr. Rogers stated that his property would be most affected visually, adding that the manure pit will be right opposite his house. He said he was concerned about property values, noting that the neighborhood houses are small and have all lost value in the current, changed economy. Mr. Rogers said not everyone likes horses. He stated that his and his neighbors' houses are their retirement and they cannot afford to see them decrease further in value. He said that he understood that he will be able to see over the tops of the proposed farm buildings to the reservoir, but the view will still be affected by them, and the indoor ring is very large/does not fit into the middle of the neighborhood.

Chairman Ivanhoe said he visited both the subject property and the neighborhood, and the indoor arena will not be in the middle of the neighborhood. He said there is a significant distance from the indoor ring to the neighboring houses. The Chairman said property value is a difficult issue, but the Board's main concerns are public safety and neighborhood impact. He said his personal view was that horse farms reduce the housing stock in Town, and a subdivision of the subject property for construction of new houses would be more likely to negatively affect property values. He said he thinks the existence of fewer homes in Town is what keeps their value up.

Ms. Caruolo asked what the Friedmans' plans are for the existing house on the property, and Mr. Friedman answered that they plan to leave it as it is.

Mr. Rogers said it can be difficult to see when pulling out onto Delancey Road from Spring Hill Road, and this will be a problem for trucks at the new farm also.

The Chairman said the Highway Department will closely consider sight-lines and safety when looking at plans for the proposed driveway.

Mr. Rogers said that particular part of Delancey Road tends to be wet/icy in the winter. He asked what kind of background checks, etc. are done on grooms who will be living in the apartment over the new garage.

The Chairman said he was sure employees are checked out.

Mrs. Rogers asked if riding lessons will be given outdoors on weekends in the summer.

Ms. Friedman said she gives lessons to people whose horses she boards, but she does not offer lessons to non-boarders.

Mrs. Rogers asked if Ms. Friedman will run a camp in the summer.

Ms. Friedman said there will be no camp. She has 2 sessions from 10 am to 12 pm and from 2 to 4 pm; on weekends a session would be from 10 am to about 1 or 2 pm. Ms. Friedman added that each session is for only 1 or 2 people.

Mrs. Rogers said she asked because she can hear Ms. San Marco talking to her horses and is concerned about noise.

Mr. Rossi said many lessons are given in the indoor riding ring/only some are given outdoors.

The Chairman said sounds from the outdoor ring will be buffered by the buildings (indoor ring and barn) between the ring and the houses on Spring Hill Road.

Mr. Rossi reiterated that lessons will only be given to people whose horses are boarded at 6 Delancey Road, and some people will just come to ride their horses without having a lesson.

Mr. Sandbank said one of the reasons he and his wife moved to North Salem is because they liked the look of horse country. He said he was not clear about why the Friedmans will not be limited to one horse per acre.

Chairman Ivanhoe said that rule is a benchmark used by Ag and Markets and applies to horses that graze for sustenance, which nearly none in Town do any more. The horses the Friedmans keep are not show horses; feed is brought in and they are not turned out a lot. The Chairman explained that if horses were to be outdoors 100% of the time, the Board would apply the one horse-per-acre standard.

Mr. Busch stated that Ms. San Marco has been trying to sell her property for a while, and she has been approached by builders. He said he would much rather see a horse farm that maintains the rural characteristic of the neighborhood than more houses. He pointed out that 6 more houses would probably add 12 cars to the use of Delancey Road. Mr. Busch said he thought the horse farm would have less impact on the neighborhood, while construction of more houses across the street could negatively impact the value of his property.

Carol Goldberg, realtor (and resident of 22 Wallace Road), said she would be happy to respond to concerns about property values. She stated that Stay Sail Farm's application a few years ago (*up to 50 horses/construction of new farm buildings including employee housing*) drew a big crowd of people from a neighboring area in Waccabuc, all of whom were opposed to the application. She said anyone approaching Town from that direction can plainly see that the farm is beautiful. Ms. Goldberg said advertising for houses for sale in the area includes photographs of farms, not housing developments, and the kind of investment proposed by the Friedmans will raise the value of 6 Delancey Road. She said that something is going to happen on/to the property at 6 Delancey Road, and in her experience horse farms always bring up neighboring property values.

Mr. Nelson said he drove around town recently and noted over a dozen barns and 5 indoor riding rings on Starr Ridge Road, Peach Lake Road and Titicus Road beyond Vox (*restaurant*). He said he guessed certain buildings were indoor riding arenas because they were so large. Mr. Nelson stated that the Town has zoning and it seems to work/the farms with indoor riding rings that he saw were surrounded by other farms but for one, while 6 Delancey Road is surrounded by residential properties. Checking local real estate listings, Mr. Nelson noted there were 4 properties available in Town that have from 15 acres up to 236. He said these properties would not require any area variances/law-bending. Mr. Nelson asked why the Friedmans would choose to take such a constrained indirect path to reach their objective, and why impose on the privacy and right to peaceable enjoyment of the neighboring residents. He said it is a case of inconveniencing many to satisfy few.

Mr. Nelson said Mr. Friedman was very cordial in his invitation to visit Autumn Farms and they spent time together, but he thought Mr. Friedman ought to consider that previous success is no guarantee of future performance. Mr. Nelson described a letter his wife presented to the Board on his behalf in 1985, when a man named Nilson made application to the ZBA for very much the same kind of operation as what the Friedmans are proposing for the same property, and Mr. Nilson was denied the right to do so. Mr. Nelson said it set a precedent; zoning is not black and white, so sometimes precedence is relied upon. He suggested the Board seek the recollections of former Board members about this application and their denial of it.

Chairman Ivanhoe stated that the Board of Appeals typically does not operate on precedence; each application is taken on its merits. He added that in his experience with regard to horse farms, past success does augur well for the future.

The Chairman asked if anyone who had not spoken yet had any further questions or comments. He said it had not been mentioned earlier, but the Board would ask that the footing in the outdoor arena either be a dustless substance or managed with irrigation to prevent excess dust.

Ms. Friedman said that is what she does at Autumn Farms now.

Mr. O'Leary asked if the Board would hold the applications over.

The Chairman replied that he thought he would close the public hearing and the Board would vote.

Mr. Reilly read a draft resolution for BA13-14, including a condition that there be no horses for hire/no lessons or training for people who do not board horses on the subject property, and noting that allowing the keeping of 18 horses on the subject property is within the discretion of the Board because the horses will not be turned out to graze/feed and so will not inordinately stress the land. Mr. Reilly also noted that the new driveway location was adjusted at the applicants' request to allay concerns of a neighbor across the way; a new site plan is to be provided for the file.

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

The Board members began to vote. Mr. Murphy voted Nay, and Mr. O'Leary said he was not ready to vote yet/he felt there were still unanswered issues.

Chairman Ivanhoe suggested tabling the motion to permit further discussion.

Mr. O'Leary said some of the neighbors' houses will overlook the windows on the indoor riding arena and the lights may be on for use of the ring at night. He said the windows should be reduced in number or size, or covered for nighttime use of the arena.

Mr. Rossi suggested that the number of windows on that side of the ring could be reduced and/or the hours of operation limited.

Mr. Friedman offered to cover the windows at night.

Mr. O'Leary said he thinks the farm will be pastoral and picturesque, and he believes it will increase property values in the neighborhood. He said the driveway configuration could be further studied to have less impact on the neighborhood, and the existing drive could be used; the new driveway seems to be just for the convenience of the applicant.

Mr. Rossi stated that, unlike a variance, a land-owner is entitled to a special permit use as long as there is no indication of adverse impact. He added that it is permissible to design a site plan for the applicant's convenience, and that does not create a condition that warrants a denial of the special permit.

Mr. Reilly pointed out that the Board may include any conditions that are reasonably related to the special permit, and that was what they were doing.

Mr. Rossi said he just wanted to make the point that it is not inherently bad to design a site plan that is convenient for the applicant, and there are also good reasons for the design. He said the existing driveway would have to be flared out to where it interfered with the existing front yard and established parking area, as well as the many trees. He said the houses across the street are set back 200 to 300 ft. from the road and won't be affected by trucks turning in, whereas the existing house on the subject property is quite near the existing driveway and very close to the road.

Mr. O'Leary asked if Messrs. Busch and Sandbank are satisfied, and Mr. Rossi said he thought so, especially as the Sandbank house is about 500 ft. away from the proposed driveway location.

Mr. Sandbank said his children are not always inside the house; they play in the yard. He also said he had not heard a lot of facts.

Mr. Rossi said he thought he just said what the facts were. Widening the existing driveway and cutting down trees would be to the immediate detriment of the house on the subject property, so it is not merely for convenience; it is to avoid significant potential adverse impact. Additionally, the new driveway does facilitate movement on the property. Regarding the indoor ring, if lights are on inside, the windows on the north side can be shuttered or otherwise screened for use of the ring after dark. He also said he thought it was a good example of the Friedmans' willingness to listen to comments and commit to additional

expense in order to address concerns. Mr. Rossi reiterated that the special permit use has been permitted in this zoning district since the Ordinance was adopted.

The Chairman asked Mr. O'Leary if he had any other issues to discuss.

Mr. O'Leary said he just felt the application was being decided quickly.

The Chairman said Mr. O'Leary was free to vote either way, and then he suggested they get a sense of the Board.

Ms. McKean said she was in favor.

Mr. Monti said he was in favor, but if Mr. O'Leary wanted to take more time and carry it over, that was a possibility.

Mr. Reilly asked if Mr. O'Leary wanted to study the driveway more carefully.

Mr. O'Leary replied that he wasn't sure if the Board has a lot of authority to approve driveway plans.

Mr. Reilly said the Board does have the authority because the application is not being reviewed by the Planning Board.

Mr. Murphy said he objected because of the number of horses to be kept on the subject property.

Chairman Ivanhoe said he would not want to reopen the public hearing even if the application is carried over.

Mr. Reilly said the public hearing could be closed subject to review of the driveway plan by the Building Inspector, possibly with an eye toward considering an alternative location.

The Chairman said he thought the driveway had been looked at thoroughly, and concerns were addressed to a satisfactory resolution.

Mr. O'Leary said his memory of what some of the other objections were was that he did not find some of those things objectionable; he did not object to there being a horse farm on the subject property or to the indoor arena, but the indoor ring windows were an issue. He said he was not concerned about traffic, but he did wonder if all the neighbors' concerns had been addressed.

Chairman Ivanhoe said he thought every thing had been covered thoroughly and the Board would vote. He stated that any time a Board member has concerns, the Board should try to answer questions and come to a satisfactory resolution as they had with the indoor ring windows; then the Board votes, either aye or nay.

Mr. Rossi said most issues had been addressed. He stated that his clients can't control traffic on Delancey Road. He said there are probably 20 similar farms in Town with higher

horse-per-acre counts, including 5 acres/15 horses and 7 acres/30 horses, and they operate well. He said he hoped the Board would vote.

The Chairman reminded everyone that the public hearing was closed.

Mr. Reilly noted that another condition of the special permit would be that the windows on the north side of the indoor riding ring must be shuttered/shaded if the ring is used after dark/lights are on.

Mr. Rossi pointed out that his clients had also agreed to shade or vent the cupolas.

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

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

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

Mr. Reilly read a draft resolution of BA13-15, noting that the area variances requested were both minimal.

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

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

**Area variance granted, as requested.**

Mr. Reilly read a draft resolution of BA13-16, including the condition that it will expire in 10 years or upon change of ownership of the subject property.

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

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

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

**BA13-17 Union Hall General Store LLC (2 Keeler Lane) – Use Variance** – To increase the number and type of foods and beverages (and the addition of cigarettes) sold on the premises, per Article IV Section 250-10, -11 and -12 (d).

Michael Liguori, attorney, Jane Beltz, occupant, and Janis Menken, property-owner, were present. Mr. Liguori stated that the Union Hall is a very unique property that has received Use Variances in the past due to the difficulty in maintaining a business in such a location. He said Ms. Beltz would like to sell hot coffee and wine, etc. and has applied for a liquor license which would cover the sale of beer as well, although that would not be a focus. Mr. Liguori said cigarettes were not supposed to be included in the application, and he sent the Board a letter withdrawing that part of the request.

Mr. Liguori stated that his client does not wish to operate a convenience store; the General Store is permitted by a 1966 Use Variance for a gift shop. He said Ms. Beltz asked him to represent her at the Building Department because he had worked on the Use Variance for Ms. Menken's yoga studio. Mr. Liguori said he met with the Building Inspector, Bruce Thompson, and they worked to draw up a list of uses acceptable under the Use Variance. He remarked that Ms. Beltz has found that people who come in to her store say they would like to be able to buy a bottle of wine. Ms. Beltz has been giving away hot coffee and hot tea but would like to be able to sell it.

Mr. Liguori said the subject property has none of the conveniences one wants for retail, and past tenants have left. He said it would be convenient for people to be able to buy wine from Ms. Beltz, because they currently have to go to Croton Falls to purchase it. He added that if she could sell wine and craft beers, little additional traffic would be generated. Mr. Liguori noted that the building has awkward access from a parking area in the rear (one has to walk up and around from the parking area)

Mr. Liguori stated that there are higher standards to be met for the granting of a Use Variance than for an Area Variance, and 5 specific factors to be satisfied. One of these is economic hardship, and the 3 Use Variances granted in the past indicate the difficulty in running a business at this location. Some past businesses include a tack shop and an art gallery. Mr. Liguori pointed out that most retail outlets need people to come in, purchase something, and leave. At the Union Hall, it is too much trouble to park and walk around the building. He commented that most permitted uses of the non-conforming building and lot would not work, and he read some examples from the R-4 Use Table.

Chairman Ivanhoe agreed that a number of businesses have come and gone in the past, and the location is challenging. He said he thought a wine store might be a good idea as it would have low impact and be very fitting. He asked how much of the business would be likely to transition over to wine, and he added that he did not think beer seemed fitting.

Ms. Beltz stated that she sells packaged cheese and bread now, so wine would be a good fit. She added that she is not interested in selling beer.

The Chairman asked how much wine would be in the shop's inventory.

Mr. Liguori replied that it hasn't been discussed. He said Ms. Beltz does not seek to completely change the characteristic of the use from gift shop to wine store, and if the situation developed that way, they would return to the Board.

Referring to a list of prohibited items, Mr. O'Leary asked which ones Ms. Beltz wishes to sell.

The Chairman noted that gift items are permitted, but no alcohol except for cooking wine.

Ms. Beltz said she has no cooking wine in her store.

Mr. Liguori said possibly local produce and hot tea/coffee/chocolate, but not magazines.

Ms. Beltz said she would like to be able to offer Advil and Band-aids.

The Chairman said those are more like convenience store items. He noted that the shop sells local eggs.

Mr. Liguori said he thought it would be a good venue for local produce.

Mr. O'Leary said the list of what will be permitted needs to be clarified.

Mr. Liguori stated that Bruce Thompson has been to the shop, and the request is really for hot tea/coffee/chocolate and bottled wine.

Janis Menken asked if it wouldn't be appropriate to have the batteries needed for some battery-run gift items, like flameless candles.

Chairman Ivanhoe stated that batteries were not mentioned in the application and suggested taking questions from the Board.

Mr. Monti asked if packaged wine and beer are wanted, but not wine-tastings.

Mr. Liguori said they would like to have wine-tastings.

Chairman Ivanhoe said the Board would limit the number of such events if they were to permit them at all, but he could see that it could be used to help get new people to come into the store and build goodwill.

Mr. O'Leary asked if conditions are imposed on Use Variances. He added that, when the business develops further, he would want to know what is and isn't permitted.

Chairman Ivanhoe said the resolution would include a list of the permitted items.

Mr. O'Leary asked what the shop's hours of operation are, and Mr. Liguori responded that the hours are covered by the site plan approval granted to Annor.

The Chairman asked if the New York State Liquor Authority limits hours of operation.

Mr. Liguori stated that the business must demonstrate that it is in conformance with the local zoning ordinance; he provided a copy of the approved site plan sent in with the liquor license application.

Mr. Reilly said the Town can't restrict the sale of beer and wine, except between 4 am and 8 am. He further stated that the beer/wine sale hours may not be further limited than the store's hours.

Gail Pantezzi of 669 Titicus Road addressed the Board, stating that she and her husband have lived across Keeler Lane from the Union Hall since 1976. She said they had just returned from a trip abroad the night before, and she has been trying just this day to figure out what is going on regarding the Union Hall.

Chairman Ivanhoe asked what Ms. Pantezzi's objection to the application was.

Ms. Pantezzi said she had 2 letters to read to the Board; one from her to the Board and one that was stuck in her front door when she arrived home. She said this was not the first time they have been through hearings of applications to broaden the list of what items may be sold in a shop in the Union Hall, and she wanted the Board to know what's gone on before. She said Ms. Beltz wants to push the limits of what she can do, but her business cannot succeed in its current location.

The Chairman asked if any business has ever succeeded in the Union Hall.

Ms. Pantezzi said there have been several: Saratoga Standardbreds had offices there; Sally Charles was a successful print and framing business; the Charles Michael Gallery was in the Union Hall for years; and there have been a few antique stores.

Paraphrasing from her letter, Ms. Pantezzi said there is a big difference between special permits and use variances, because use variances run with the land. She stated that her comments were not about Ms. Beltz or Ms. Menken but, rather, about the property. She said she is opposed to the proposed changes because they will impact both the subject property and the neighborhood. She said she is opposed to the sale of any food or beverages whether packaged or fresh, the production of any food or beverages on-site and the consumption of any food or beverages on the premises. Ms. Pantezzi stated that the sale of gift foods was agreed to in meetings between Ms. Beltz, attorneys, the building's owner and the Building inspector, but without the knowledge of anyone in the neighborhood. She read that despite pleadings from owners of Union Hall, the Board of Appeals found that it was not the business of the ZBA or the Town to guarantee ways to create profitable businesses for Union Hall. Ms. Pantezzi said she was pleased to be invited to see the renovations to the building when Ms. Menken was putting in her dance/yoga studio, but she does not otherwise involve herself in the businesses at the Union Hall. *(letter and flyer in application file)*

Chairman Ivanhoe said time was running short, and he asked again what her specific objection was.

Ms. Pantezzi said she objected to the sale of food items in the Union Hall.

The Chairman said the applicant wishes to sell hot coffee, tea, hot chocolate and wine.

Ms. Pantezzi read from an article in The Daily North Salem (*incorporated into the flyer left at her house*), "Right now we're a retail store. It's been a retail space for the last 50 years, but I'd like it to be more of a coffeehouse. I've been giving coffee away, but a variance would allow us to brew and sell it. We could also grind beans and sell freshly-ground coffee."

Ms. Beltz (quoted above) said she had not said she wants a coffeehouse. She also said her shop has been well-received, although Ms. Pantezzi has never come in.

Ms. Pantezzi said she didn't want to engage in the business of food and drink in the Union Hall.

The Chairman stated that Ms. Pantezzi's letter would be taken to keep as part of the record.

Sal Pantezzi said he believed the request for the addition of "wet items" would call for a new use variance and thus the beginning of another round of discussion to open the door wider.

Chairman Ivanhoe agreed that it is a slippery slope, adding that the Board had not heard from Mr. Reilly on the subject yet.

Mr. Pantezzi stated that the shop benefits from a use variance already, and the applicant seeks to expand that to include coffee and tea or wine, which could lead to table service and people hanging around and then there is a buffet.

Chairman Ivanhoe said his understanding of the application was that it does not ask to be a coffeehouse or a wine bar. He said the Board might only consider allowing the sale of bottles of wine, and perhaps hot coffee, tea and hot chocolate that are ready-to-drink.

Mrs. Pantezzi said she and her husband have just begun to talk with some of their neighbors about the application.

Mr. Pantezzi remarked that his goal, in the end, is to see that there will not be a restaurant and kitchen on the premises in the future.

The Chairman said the Board would like to hear from some other members of the public. He commented that things evolve, adding that he thought the Union Hall was probably a busy place in the past where beer and wine might have been served.

Ms. Pantezzi said the Union Hall was originally a stagecoach stop. She remarked that now that people can even shop on-line it is even harder to compete, and in the Union Hall's location it is very difficult to successfully maintain a retail operation.

Dawn Carruolo of 3 Spring Hill Road said she likes to stop by, park across the street, run in and get a muffin on her way to work; she thinks the shop is a real asset.

The Chairman said parking is an important point. He spoke to the Building Inspector about it and if the use variance goes forward in some form, they agreed that it will require the installation of planters or something like that to absolutely prevent parking in front of the Union Hall on the street. He noted that people park across the street to walk their dogs.

Mr. Pantezzi said people park in front of his house.

The Chairman admitted that this can be annoying, but it is not prohibited.

William Caruolo said he has been to the store; it is gorgeous, and taking time to slow down a little in a nice/beautifully decorated shop is a good thing. He added that enabling the store to offer a little something more would be good for business.

Chris DeFilippo stated that he is in support of the store, adding that the community is lucky to have such a place.

Mr. Pantezzi commented that the Chairman was calling on people who live much farther away, while he lives right next to the Union Hall.

The Chairman said he thought it would be good to let people from other parts of Town speak.

Mr. Pantezzi said it is much different for people who live near the Union Hall.

Janis Menken said she lives at 26 Keeler Lane and has a good relationship with the Pantezzis. She said she was surprised to hear there had been an office in the Union Hall at one time because she could more easily have rented office space, but it is not a permitted use for the building. She commented that she has enjoyed having Jane's lovely shop. Noting that the sale of cigars in boxes is permitted/Ms. Beltz has a tobacco license, she asked if a use variance overrules that license. She explained that she absolutely would not want cigarettes sold in the shop, even though she knows that sale of cigarettes was removed from the application.

Ms. Menken said she also wanted to comment on the "slippery slope" brought up earlier. She stated that the Town is quite strict, and so she does not think people loitering on the front porch of the Union Hall drinking wine would be tolerated. Ms. Menken said she has only ever noted the occasional dog-walker on the porch for a few minutes, and she has called the police about the Union Hall parking lot being used as an overnight "park and ride" spot by people. She said she brought this up as an example of the fact that she watches closely what goes on at the Union Hall.

Ms. Pantezzi told Ms. Menken that the issue is that the use variance, if granted, goes on forever.

Chairman Ivanhoe said he would address Ms. Pantezzi's point. He stated that the Board will be very careful with the application, because it will run with the land. He added that he felt sale of bottled wine would be dry retail, but he was not sure yet about hot coffee, tea and hot chocolate.

Mr. Liguori asked to respond to some points raised. He stated that his client is reasonable and willing to agree to some restrictions. With regard to business hours, he said the General Store closes at 6 pm, and people will not be going there to drink wine on the premises. Mr. Liguori said the antique shop operated as the result of the 1966 use variance, and inclusion of gift foods was a result of the litigation/stipulation in 1995. He stated that he met with the Building Inspector, not for the purpose of holding some sort of backroom meeting, but to

make sure his client does the right thing/they do not want to upset anyone. Mr. Liguori said the documents could be construed differently by different parties, and he wanted to make sure his client and the Building Inspector were in agreement about what is permitted to be sold.

The Chairman announced that he would close the public hearing.

Mr. O'Leary said he could see taking things one step at a time. For example, he felt that coffee and tea are one kind of thing, and wine is another. He said the 121 Market runs as a restaurant in the evening with what appears to be a takeout feature, so one could probably get a bottle of wine there. For this reason, perhaps Town residents do not need to be able to buy wine at the Union hall also.

Ms. Beltz said the Market does not sell wine.

Chairman Ivanhoe commented that he could see bottled wine being added to the list of dry items things sold at the General Store.

Mr. Reilly stated that the issue was settled by the 1995 Stipulation, because the Board of Appeals was not in favor of a use variance, to the best of his recollection. He said the issue is not one of convenience and no proof had been presented that conforms to the Statute. Mr. Reilly explained that this is the major difference between the 1966 use variance and the 1995 stipulation; in 1966 there was no statute for use variances. He added that the standards are extremely strict, because a use variance may not be granted until the applicant brings forth an argument with proof for what he considers a change of use. He remarked that the applicant wants to change the use from what was stipulated in a litigation, and the change is significant enough in his legal opinion that she should start over with the statute. He said he regretted saying this, but it was his advice. Mr. Reilly explained that the matter should not be handled by adding things that were prohibited in 1995.

Chairman Ivanhoe asked Mr. Reilly to explain what changed in the past.

Mr. Reilly stated that in 1966, there was a tradition of what was required for area variances and what was required for use variances, but there was nothing written. Now local laws have strict requirements, so the Board should have a record before granting a use variance, especially when there have been objections. He recommended the application be held over. With regard to having closed the public hearing, Mr. Reilly said it could be re-opened to the extent of allowing the applicant the opportunity to present the issue, so as not to end up in litigation. He noted that holding the application over would also allow time for the Building Inspector to offer input.

The Chairman agreed, saying he spoke to Mr. Thompson but the other Board members did not.

Mr. Liguori stated that his goal was to achieve what his client desires, and they did apply for a new use variance. He said he thought they had offered enough testimony and discussion to satisfy the criteria of the test, but the Board may hold the application if they want to.

Mr. Reilly said the applicant needs to offer financial information provided by an expert/not an attorney, and she also needs to establish that her hardship is not self-created and go through the list of permitted uses one by one to prove that she cannot run her business successfully with only those.

Chairman Ivanhoe said he had a mixed sense of the Board, so the application should be held over. He announced that the public hearing was closed.

Mr. Reilly approved, adding that it will give Hogan & Rossi the opportunity to provide written arguments as to how they satisfy the requirements of the statute if they wish to do so.

The Chairman adjourned the meeting at approximately 11:50 pm.

Respectfully submitted,

  
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Janice Will, Recording Secretary