

**BOARD of APPEALS**  
**Public Hearing**  
**June 13, 2013**  
7:30 p.m., The Annex

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

**MEMBER ABSENT:** Brian Ivanhoe, Chairman

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

*William Monti called the June 13, 2013 Town of North Salem Zoning Board of Appeals meeting to order.*

Mr. Monti set the next meeting date for Thursday, July 11, 2013.

The minutes of the May 9, 2013 meeting were unanimously approved.

**HEARING CARRIED OVER:**

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

Mr. Monti stated that as there had been no positive response from the applicant since the May meeting, the application would be taken off the agenda without prejudice. He added that a new application may be filed in the future.

Gail Pantezzi of 669 Titicus Road was called on. She said she had sent the Board an 11-page letter regarding this application, in which she brought several things to their attention concerning how the situation has been dealt with. She went on to say that even though the application has been removed from the agenda, there is more to the matter than that.

Gerald Reilly stated that it is the only part of the matter the Board has anything to do with. As the application has been removed from the calendar, no further testimony will be heard and no exhibits will be accepted. He said that the application was faulty because there was no approval by the owner of the subject property, and the Board of Appeals' business with the Union Hall General Store is concluded now.

Ms. Pantezzi said she is concerned about violations on the property, but Mr. Reilly informed her that it has nothing to do with the Board.

Ms. Pantezzi then asked to whom she should address those concerns, and Mr. Reilly replied that she should write to the Building Inspector.

Ms. Pantezzi said she has done that.

Mr. Reilly said the Board meeting was not a forum for enforcement.

Ms. Pantezzi said she will take it up with the Building Inspector, and she asked Bruce Thompson if he will address his findings to her.

Mr. Thompson said he will do so.

Ms. Pantezzi said she would be willing to meet with Mr. Thompson in an effort to come to a good resolution for going forward with applications such as the Union Hall General Store's.

Mr. Thompson stated that he will address Ms. Pantezzi's letter and meet with her if necessary.

Ms. Pantezzi said she had some issues with Notifications.

Mr. Reilly said the application was removed from the agenda, so it would be inappropriate to discuss it further.

Ms. Pantezzi stated that she wanted to know what to do, and Mr. Reilly responded that she should deal with Mr. Thompson.

#### PUBLIC HEARINGS:

**BA13-27** Patrick Donovan (605 & 607 Route 22) – **Area Variance** – To increase the maximum height of a fence in a front yard, per Article VI Section 250-22. A variance of 8 ft. is requested (4 ft. permitted; 12 ft. proposed) to legalize an as-built 6 ft. retaining wall with stockade fencing above.

Mr. Donovan had not arrived at the meeting. The Chairman said the application would be put aside for the time being.

**BA13-28** Joanne and Russell Smith (354 Hawley Road) – **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district, Per Article V Section 250-15. A variance of 15 ft. is requested (75 ft. required; 60 ft. proposed) for installation of a generator.

Russell Smith addressed the Board, stating that he would like to have an air-cooled 20-kw generator installed on the west side of his property where other mechanicals are located. He said the proposed site encroaches into the side yard setback, as his house also does.

Mr. Smith added that the neighbor's house on that side is not even visible. Mr. Smith said there is a NYSEG easement on his property, so his house, pool and barn are all on one side of the lot. He said the generator could be put toward the front of the house where it would not require a variance, but it would be close to the houses on the 2 lots in front of his. Mr. Smith respectfully asked the Board to grant him an area variance.

Mr. Monti asked Mr. Smith if he had said his house in the setback, and Mr. Smith replied that it is 69 ft. from the side yard line.

Mr. Monti suggested that Mr. Smith meet with the Building Inspector to make sure the location of his house does not become a problem in the future.

Ms. McKean asked if the proposed generator site is far enough away from the house for safety.

Mr. Smith responded that it has to be at least 10 ft. away from a window, which is part of the reason the variance is needed. He added that the variance request is for a 15 ft. setback decrease, but the generator may be a few ft. farther from the property line than that.

Mr. Monti read a letter from a neighbor, Marianna O'Dwyer/344 Hawley Road, in which she stated that she had no objection to the variance request.

Noting there were no other questions, Mr. Monti closed the public hearing.

Mr. Reilly read a draft resolution, noting that the property has a utility easement on it, the house is non-conforming, and there were no objections from any neighboring property-owners.

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

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

**Area variance granted, as requested.**

**BA13-29** Rebecca and Raymond Znidarsich (29 Lakeside Drive) – **Area Variance** – To decrease the minimum combined side yard setbacks in an R-1 zoning district, per Article V Section 250-15 and Article XIV Section 250-79 (A) (because the non-conforming lot is subject to R-1/2 bulk requirements. A variance of 21 ft. is requested (15 ft./40 ft. required; 3.9 ft./13.9 ft. existing; 3 ft./19 ft. proposed) for installation of 2 air-conditioning compressor units.

Mr. Monti called on Raymond Znidarsich, who stated that the compressors have a maximum decibel level of 54, which is less than that of speaking voices. He added that none of his neighbors objected to the variance application.

Mr. Monti asked if the Bloomerside Co-op had approved the plan, and Mr. Znidarsich said they had.

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

Mr. Reilly read a draft resolution, noting that the Bloomerside Co-op approved the plan, there is no other place to put the compressors, and there were no objections to the variance request.

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

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

**Area variance granted, as requested.**

**BA13-30** – Lynn Bronswijk and Goran Skoko (198 Keeler Lane) – **Area Variance** - To decrease the minimum side yard setback in an R-1 zoning district, per Article V Section 250-15. A variance of 25 ft. is requested (30 ft. required; 4.5 ft. existing; 5 ft. proposed) for installation of an underground LP gas storage tank and 2 air-conditioning condenser units and re-location of an existing generator.

Elizabeth O’Leary, architect, was present for the applicants. She said there are alterations/additions being done at the subject property which necessitate relocation of some other elements. It is proposed to put the generator and condenser units behind the existing non-conforming garage and wood shed. Ms. O’Leary stated that her clients own the adjacent lot on the side for which the variance is requested.

Gail Pantezzi stated her belief that Ms. O’Leary is married to Richard O’Leary of the ZBA, adding that this should have been made known at the meeting.

Ms. O’Leary said Ms. Pantezzi was correct, and her husband’s connection to the project is in the disclosure statement in the application.

Ms. Pantezzi said she is interested in things like the Code of Ethics, and it should be stated at the meeting because people need to know.

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

Mr. Reilly read a draft resolution noting that the proposed locations for the tank, air-conditioning condensers and the generator are appropriate, and there were no objections from neighbors.

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

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

**BA13-31 Robert Hinman and/or Copernicus Holdings, LLC (893 Peach Lake Road) – Special Permit** – To amend Special Permit BA12-31 (for the maintenance of a commercial boarding operation for up to 15 horses) for up to 5 more horses and construction of a 4-stall barn, per Article XIII Sections 250-65 and -72.

Jen Hinman was present, and she said she was expecting her attorney, Don Rossi. She explained that she wants to have a 4-stall shed-row at the end of the aisle created by the barn and the indoor riding arena.

Mr. Monti asked if there was anything that Mr. Rossi would have to add.

Ms. Hinman explained that ownership of the farm is to be switched to the LLC, Copernicus Holdings.

Mr. Rossi arrived, and Ms. McKean asked to be shown the location of the shed-row.

Mr. Rossi displayed a large site plan and indicated the site for the shed-row. He stated that the shed-row will have 4 stalls and the existing barn has 16. He remarked that it is appropriate because the area is already disturbed, and there is vehicle access. He explained that the separate 4-stall shed-row will permit horses to come to the farm temporarily or to accommodate horses requiring medical isolation.

Ms. McKean commented that the farm looks beautiful but she is concerned about paddock-usage by 20 horses. She asked how much paddock space there is.

Ms. Hinman replied that there are 7 paddocks.

Ms. McKean asked if it was correct that Ms. Hinman doesn't anticipate having 20 horses on the property at the same time.

Ms. Hinman said she just wanted the flexibility to have additional horses during shows or for horses coming out of quarantine that need to be isolated.

Mr. Monti said he did not remember the original paddock layout, but he didn't think Ms. Hinman had built them all out.

Ms. Hinman replied that there are 3 at the front of the property, 2 on top of the hill and 2 smaller medical paddocks by the side of the driveway.

Mr. Monti commented that the paddocks aren't all visible from the road.

Ms. Hinman said that was correct. She added that there is also a treadmill for exercising horses so the paddocks aren't over-used.

Mr. Monti said it seemed Ms. Hinman had built all the paddocks she planned for, and Ms. Hinman said she had.

Mr. Monti stated that it looked to him as though there is still more room for paddocks, and Ms. Hinman said he was right.

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

There was some discussion about whether Robert Hinman or Copernicus Holdings, LLC would be the property-owner and special permit-holder.

Mr. Reilly pointed out that it is a condition of most special permits that if ownership changes (including going from a human being to a corporation), the special permit expires.

Mr. Rossi said he had requested "either/or" and likened it to how a person may make application as contract vendee of a property; when the closing is over, that person becomes the owner.

Mr. Reilly asked if Mr. Hinman will be a part of Copernicus, and Mr. Rossi replied that he will/he is Ms. Hinman's father.

Mr. Reilly said it would be alright.

Mr. Rossi asked that the special permit be issued to Copernicus Holdings, LLC.

Mr. Reilly read a draft resolution noting the change from Robert Hinman to Copernicus; and the Board had seen fit to permit 15 horses on 13.3 acres and sees no problem in adding 5 more horses, particularly given the reasons provided by Ms. Hinman.

Mr. Monti asked when the special permit amendment will expire.

Mr. Reilly explained that it will expire when the original special permit, BA12-31, is due to run out (August 2012), because BA13-31 is an amendment/not a new special permit.

Mr. Rossi suggested that Mr. Reilly might want to mention in the resolution that the 4-stall barn will be 147 ft. from the property line.

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

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

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

**BA13-32 Peter Meisels (165 Finch Road) – Special Permit** – For the keeping and training of up to 2 horses, per Article XIII Sections 250-65 and -72.

Peter Meisels addressed the Board, explaining that he and his wife wish to build a small (12 ft. x 36 ft. stable with an 8 ft. overhang at the front) for 2 horses and a hay/feed storage shed. He said there will be minimal tree-clearing for 2 small paddocks. Mr. Meisels stated that the proposed sites of the barn and the shed are at least 150 ft. from his next-door neighbors, the Tyso/Vosburghs, and all work will be done uphill from the stream encroachment line on his property.

Ms. McKean asked if the barn will have 2 stalls and a tack area.

Mr. Meisels said Ms. McKean was correct; there will be a tack area between the stalls. He added that the storage shed will be 12 ft. x 14 ft.

Ms. McKean asked if all grooming will be done in the stalls, and Mr. Meisels said it will.

Mr. O'Leary asked if the setbacks for the barn and shed were provided.

Mr. Meisels said he indicated the 150-ft. distance from the eastern property line, and the buildings are several feet farther back; the rear of the barn will be about 117 ft. from the western property line.

Mr. O'Leary remarked that the buildings weren't mentioned in the agenda description.

The secretary said this omission/error was hers, as construction of new buildings, paddocks, etc. is normally described in the agenda.

Mr. Reilly said it was not a problem as no variances are required.

Mr. Monti asked if the Meisels reside on the subject property, and Mr. Meisels answered that they do.

Mr. Monti asked Ms. McKean if there was anything special she would expect for a small operation such as this one.

Ms. McKean said she would want to know about manure disposal.

Mr. Meisels said they will have a dumpster.

Mr. Reilly said all the requirements will be the usual ones for special permits for the keeping of horses; it is merely a small operation.

Mr. Monti asked if there will be electricity in the barn.

Mr. Meisels responded that he plans to use solar energy for lighting, and there will be a water line to the barn.

Mrs. Meisels added that they intend to recycle rain water from the barn roof to water the paddocks with.

Mr. Reilly asked what type of fire alarm should be required.

Mr. Thompson stated that these will be 2 personal horses/there will not be boarders; the commercial aspect of the situation is that the horses are to be trained for sale. He said the Board has not normally required alarms for fewer than 10 personal horses.

Mr. Monti asked if Mr. Meisels planned to have any sort of fire alarm to protect the horses.

Mr. Reilly asked if the Board didn't say something about alarms that can be heard outside.

Mr. Thompson explained that in the case of central-station alarms, the Board has required that.

Mr. Meisels said he thought an alarm was a good idea.

Mrs. Meisels added that the stalls will not be closed/the horses may go in and out at all times to 2 attached, all-weather paddocks. She said the other paddocks will be grass.

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

Mr. Reilly read a draft resolution, noting that the Meisels met all of the requirements of Article XIII, Section 250-65 and -72.

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

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

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

As the applicant was now present, Mr. Monti said the Board would hear BA13-27.

Patrick Donovan explained that there was an existing retaining wall between the 2 properties, but it failed, so he built a new one. The new wall is slightly higher and he added a fence above it for safety.

Mr. Monti asked if Mr. Donovan was unaware of the height limitations in Town.

Mr. Donovan said he was aware of the requirements, but the wall had to be re-built immediately.

Mr. Murphy asked if any neighbors had an issue with the wall and fence.

Mr. Donovan stated that he owns the properties on either side.

Ms. McKean asked Mr. Donovan what he meant when he said the old retaining wall failed.

Mr. Donovan explained that a tree behind the wall fell, and its root ball pushed the wall out.

The Building Inspector remarked that the situation is unique in that the wall runs from one property to the other, both of which Mr. Donovan owns.

Mr. Monti said Mr. Donovan has done a good job of renovating some old buildings on Route 22.

Mr. Donovan thanked him, saying he has tried to maintain a colonial-look.

Mr. Monti closed the public hearing.

Mr. Reilly read a draft resolution including findings that the situation on Route 22 where the subject properties are located is unique; there were no objections; the added fence is necessary for safety reasons; and the applicant had no alternative but to replace the wall.

**Motion by: Cynthia McKean**

**Seconded by: James Murphy**

**Mr. O'Leary: Aye**

**Ms. McKean: Aye**

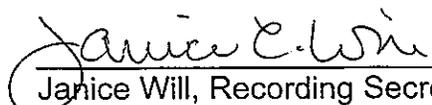
**Mr. Murphy: Aye**

**Mr. Monti: Aye**

**Area variance granted, as requested.**

The meeting was adjourned at approximately 8:15 pm.

Respectfully submitted,

  
Janice Will, Recording Secretary