

BOARD of APPEALS
Public Hearing
January 16, 2014
7:30 p.m., The Annex

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

MEMBER ABSENT: Brian Ivanhoe, Chairman

OTHERS PRESEN Gerald Reilly, Counselor
Bruce Thompson, Building Inspector
Janice Will, Recording Secretary
Members of the Public

Acting Chairman William Monti called the January 16, 2014 Town of North Salem Zoning Board of Appeals meeting to order.

The next meeting date was set for February 13, 2014.

The minutes of the December 12, 2013 meeting were unanimously approved.

PUBLIC HEARINGS:

BA14-01 John O'Loughlin (1 Vail Boulevard) – **Area Variance** – For installation of a storage shed in an R-1 zoning district, per Article V Section 250-15. A front yard setback variance of 22 ft. is requested (35 ft. required; 13 ft. proposed).

Mr. and Mrs. O'Loughlin were present. Mr. O'Loughlin stated that he bought the smallest shed possible to try and keep his variance request to a minimum.

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

Gerald Reilly read a draft resolution, noting there had been no objections and the application was approved by the Vail's Grove co-op board.

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.

BA14-02 Renee San Marco (6 Delancey Road) – **Special Permit** – For the keeping of up to 8 horses for personal use, per Article XIII Section 250-72.

Renee San Marco addressed the Board, saying she was applying for a special permit because she let her previous special permit expire as she had only 2 horses at the time. She explained that she has a third horse now and occasionally takes in rescue horses, and she does not want to be in violation of the zoning ordinance. Ms. San Marco added that she has no boarders.

Ms. McKean asked if the previous special permit was for 8 horses.

Ms. San Marco said it was for 6 horses, but her property has room enough for 8 horses.

Ms. McKean asked how many stalls there are on the property, and Ms. San Marco replied that she has 4 stalls in her barn and 6 others in run-in sheds.

William Nelson of 8 Spring Hill Road was called on. He said he was confused, because a realtor's ad for the property stated that there is a special permit for 8 horses, and so he wondered if BA14-02 was a request for 8 more horses/16 in all or was an arrangement made that permission for 8 horses could be listed with formal approval pending. Mr. Nelson said the ZBA secretary informed him that such arrangements are not made/special permits are not granted prior to a public hearing. Mr. Nelson said he checked the record, and Ms. San Marco's previous special permit expired in 2009/was not renewed which he wondered about.

Mr. Reilly stated that no information was missing; Ms San Marco's special permit expired as many do, as there is no method that he is aware of for keeping track of when special permits expire, although this has been discussed. He added that Ms. San Marco's is a de novo application for the keeping of up to 8 horses in total.

Mr. Nelson said it was his understanding that special permits are granted with conditions which enable the ZBA to monitor the activity under such permits, such as time limits, number limits, etc.. He asked if Mr. Reilly was saying that the ZBA is trying to come up with a method for monitoring special permits. Mr. Nelson remarked that he could see how this might be difficult given the number of special permits in Town.

Mr. Reilly said there is a minimum number of people in Town to monitor these things, so applicants are relied upon to re-apply for permits when they expire, and many people come in after the fact.

Mr. Nelson said he appreciates the efforts of volunteer residents. He stated that he had an opportunity last year to undertake an extensive review of special permits in Town, particularly those for commercial horse-boarding and involving indoor riding rings. Mr. Nelson said there are approximately 40 such special permits, and he noticed a pattern.

Mr. Monti asked Mr. Nelson what he was driving at and how it pertained to BA14-02.

Mr. Nelson said he thought what he had to say was pertinent. He continued, saying the pattern he observed is that once some special permits are granted, they seem to take on a life of their own, and he wanted to ask Ms. San Marco about that.

Mr. Reilly said he thought Mr. Nelson's comment was irrelevant to Ms. San Marco's application, and she was not present to answer questions from the public/those are to be directed to the Chairman. Mr. Reilly noted that the Chairman suggested that Mr. Nelson's second point has nothing to do with Ms. San Marco's application for the keeping of up to 8 horses, to which she is entitled/it is not like a variance.

Mr. Nelson said he understood that and asked if he could have 30 seconds to continue. He stated that Monomoy Farm was granted a special permit for up to 20 horses (BA13-10) and returned a month later with a request for 10 additional horses and 10 more stalls which was also granted. Mr. Nelson wanted to know if Ms. San Marco would be able to do this.

Mr. Reilly said Mr. Nelson was making a supposition about what Ms. San Marco is going to do in the future; the application being considered at this meeting was for 8 horses which is all that can or will be approved at this time.

Mr. Nelson said he stood corrected, and he had another question. He stated that Ms. San Marco's previous special permit, BA99-46, listed 6 tax lots, but the Notice to Property-Owners he received regarding BA14-02 mentions only 2 lots, so he wanted to know if she has permission to ask for additional horses to be kept on the other tax lots.

(What were 6 lots in 1999 have been combined in part and are now the 2 lots described in Ms. San Marco's Notice to Property-Owners.)

Mr. Monti informed Mr. Nelson that people may always request an increase in the number of horses to be kept under a special permit, which does not mean it will automatically be approved. He noted that Ms. San Marco's previous special permit was for up to 6 horses, which she allowed to expire while she was keeping only 2 horses, and she is now requesting a permit for up to 8, which is all the Board is considering at present. Mr. Monti further stated that if her situation changes, she always has the right to request a change; everyone has this right, although there is no guarantee that such requests will be granted.

Mr. Nelson said he understood. In his closing statement, he said he has never picked up the smell of horses nor has there been any noise coming from Ms. San Marco's property, and he has never been bitten by a horse fly, which he said was in great contrast to his experience with the previous owner of the property. Mr. Nelson said he would recommend approval of her special permit application as she has been an exemplary caretaker.

Mr. Monti called on Ms. San Marco, who stated that her realtor's inclusion of the statement about the special permit in the real estate listing was an error, and it will be corrected.

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

Mr. Reilly read a draft resolution including the following findings: the applicant had a special permit for 6 horses in the past, has 2-3 horses now and wants to be able to keep up to 8; there is adequate stall space for 8 horses; evidence was presented that the subject property is maintained per the Town Code; the application is for a permitted use; and there were no objections to the application.

Motion by: Richard O'Leary
Seconded by: Cynthia McKean

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

Special permit granted as requested.

BA14-03 Avalon Gardens, LLC (955 Peach Lake Road) – **Special Permit** – For an amendment of Special Permit BA13-34 (commercial boarding operation for up to 18 horses and the keeping of 2 cows) to allow additional time to provide detailed plans and a schedule for construction of an indoor riding arena and the removal of an existing membrane structure, per Article XIII Section 250-72.

Mr. Monti said that 6 months had passed since BA13-34 was granted, so the Board was expecting to see proposed plans for the new riding arena.

Mrs. Young said it had been her understanding that she and her husband would be given 2 to 3 years to have the new ring constructed. She stated that the size and location have been determined, steel-frame construction has been selected, engineering site work has been done, and she and her husband have met/spoken to 3 companies about building the ring. She further stated that they have been busy repairing, replacing and cleaning things up on the subject property, so they do not have final plans yet/she does not think anyone would have been able to produce them so soon.

Mr. Monti asked if the Youngs had anything to show where the new indoor arena will be located and what size it will be.

Mrs. Young said it will be in the same location as the existing structure but wider and longer, and it will require some site work which will be done by Lawton Adams.

Mr. Monti remarked that the Board received nothing on paper.

Mr. Young said they submitted a survey with their application in July; the northeast corner of the new ring will be where the northeast corner of the existing structure is shown on the survey.

Mr. Monti asked how big and how high the riding ring will be.

Mr. Young responded that it will be 100 ft. x 200 ft., but the height has not been determined yet. He stated that when he and his wife were before the Board in July, they left with the impression that they would have to return in January with an update, which he felt they were doing. He said they have spoken to builders and an architect as well as making numerous significant repairs and improvements on the property that can be plainly seen when driving on Peach Lake Road. He commented that one problem often leads to another one. Mr. Young said he filed an electric permit to bring the service on the northern end of the property up to date and for installation of a generator.

Mr. Young stated that he preferred to ask for an extension rather than provide something for the ring now and then have to return again with plans for the improvements to the 4-car garage. Mr. Young said it is his intention to come back with complete plans for both the ring and the garage. He stated that Kellard-Sessions (engineering firm) has completed a storm-water pollution prevention plan which he received this very day/has not been forwarded to the Town yet. He explained that he was advised by the Town to start the SWPPP process right away because it can take a long time, and that is what he did. He asked for an additional 6 months to return with specific plans for the ring and the garage.

Ms. McKean commented that removal of the membrane structure on the property was a big issue; if the Youngs are given additional time, it seems the structure will remain in place longer.

Mr. Young replied that the membrane structure will not be removed yet, but will be removed for construction of the new indoor arena. He said he has done a lot to move forward and does not think the Board wants him to return one month with plans for the ring and again a month or 2 later with plans for the garage renovation.

Mr. O'Leary asked if the work on the garage will require variances.

Mr. Young stated that the existing garage is within the required setback/he does not plan to change the footprint. He said an architect told him he would have to apply for a variance for renovations to the garage.

Mrs. Young said she does not like the membrane structure either, but there are other problems on the property that needed to be addressed first before any construction begins. She said she does not think asking for an additional 6 months is a lot of time to fix things on the property and get plans.

Bruce Thompson, Building Inspector, said he thought the Youngs believed that final plans were being required at this time. He said most applicants in similar circumstances bring conceptual plans/not working drawings. Sometimes changes are made after meeting with the Board, and applicants would not want to have invested in a full set of working drawings that might have to be amended. Mr. Thompson stated that the expectation was that the Youngs would update the Board regarding their progress, including the new riding arena; final plans were not expected, but progress toward replacement of the membrane structure and a time-line were. He said it was expected that it would take upwards of 6 months to get a building permit, which will be good for one year.

Mr. Reilly noted that the resolution for BA13-34 stated that the membrane structure will be taken down 18 months from now/2 years from the granting of BA13-34, and this was based on the expectation of receiving a conceptual plan to be presented in January.

Mr. Young said the point about conceptual plans versus detailed plans was just clarified for him and his wife this week when they met with an architect about the garage. In July, it was their impression that they had 2 years to complete the project and would provide an update in six months. He stated that he does have sketches in his car.

Mr. Reilly said Mr. Young was right in saying he has 2 years to replace the membrane structure with a new indoor arena, but the Board was expecting conceptual plans now so they and the public would be able to see and comment on what is proposed.

Mrs. Young said they had thought that final plans were expected.

Mr. Reilly said the resolution does not state that final plans needed to be presented in 6 months. He asked if the Youngs were still complying with the time-frame as it is spelled out in the resolution.

James Murphy remarked that the Youngs seem to be making a good effort to do the right thing on their property, adding that he knows how problems with a project can stretch out the time it takes to complete. He said he felt the issue was a semantic one/the Youngs do not object to the overall time-line.

Mr. Young said that was correct/he and his wife are anxious to see things move forward. As an example of things taking longer than expected, he explained that 40 windows needed to be replaced and the job was to have been finished at Thanksgiving, but the work is still not done.

Mr. Reilly asked what the Youngs want a 6-month extension for.

Mrs. Young said she and her husband want another six months to provide detailed plans for the indoor riding arena and the 4-car garage.

Mr. Monti asked if they will still be finished by June of 2015, and Mr. Young said they will.

Mr. Monti asked if they intend to keep to the commitment made in July of 2013.

Mr. Young said they do/nothing has changed with regard to their intent. He added that they had thought they just needed to tell the Board what they have been doing/what progress has been made, which they were doing.

Mr. Reilly stated that the Building Inspector is responsible for enforcing the conditions of special permits, but he was trying to determine what certain people thought was to be provided at this meeting. He said he knows now that it was to be a non-specific plan to show the Board and the public what the Youngs want to do. The request for a 6-month extension had confused him initially, but the applicants say they are not requesting

additional time overall. Mr. Reilly went on to say that it was his impression that the Board would still like to see some kind of schematic before the Youngs acquire full plans.

Mr. Thompson stated that prior to the issuance of a building permit, construction drawings must be provided; prior to that, the Youngs need to have amended the special permit for the purpose of providing a plan to construct a new indoor riding arena/remove the existing structure. He said working drawings are not necessary, but the Youngs should accurately show the dimensions of the new building, its fenestration, any outdoor lighting, etc. and a site development plan. Mr. Thompson added that an approved SWPPP is not required at this point, but it is good that the Youngs got their plan done so fast; if it is nearly ready to be submitted for engineering review, that is commendable. He said he was merely trying to make clear what the order of things should be, so that the Youngs will not be way ahead on things not needed yet but unprepared with things that are required.

Mr. Young said he was requesting an amendment of BA13-34 to allow another 6 months to provide plans, but he still intends to comply with the original agreement to be finished in a total of 2 years.

Mr. O'Leary suggested that if the Youngs wait 6 months to return to the ZBA and then apply for a building permit, they could be leaving themselves only 9 months to finish the project.

Mr. Young said he plans to return to the Board in June 2014 and is confident the new ring will be completed by July 2015.

Mr. O'Leary said Mr. Young was not allowing enough time for the permit process.

Mr. Young said he has been told by architects, builders, etc. that if he comes back with plans in June of 2014, construction will be complete by July 2015.

Mr. Reilly said that information received from Chairman Brian Ivanhoe is that he was expecting a schematic plan, and the application should be adjourned for a month or 2 to have those plans brought in. Mr. Reilly added that this should not interfere with the Young's overall timetable.

Mrs. Young asked if the Board wants to see a schematic plan first and then architectural drawings, and Mr. Reilly said that was correct.

Mr. Thompson explained that working drawings are what are provided to a contractor to build; preliminary drawings tell what things will look like, and that is what the Board is interested in seeing. He said it seemed to him that, as the SWPPP is done, the Youngs already know where the ring will be located so they have something to submit. Adding elevation drawings to that should be enough to show the Board.

Mr., Murphy said he agreed with Chairman Ivanhoe that the Youngs should return in a month with conceptual drawings, and they don't need another 6 months.

Mr. Reilly stated that it will give the Board and members of the public an opportunity to see what the Youngs propose to do.

Mr. Monti stated that the Board could not vote at this meeting as there was nothing presented. He said the Youngs should have brought a report regarding their progress and some kind of schematic plan. As the Board was unable to act, he would hold the application over to the February meeting, for which the Youngs are to submit a plan and a report describing their progress and reinforce their commitment to complete the project by the end of June 2015.

Mr. Reilly stated that since the applicants are returning in February with plans, it may obviate potential delays in the future.

Mrs. Young said she does not expect to have chosen a builder by February.

Mr. Monti said that does not matter.

Mr. Reilly said the Board and the Youngs agreed to the conditions regarding time in the resolution for BA13-34. He said they should submit a report and schematic drawings in February for the Board and the public to see and then the Board will vote.

Mr. Thompson asked if the Board would hear public comments or wait until February.

Mr. Reilly stated that the public hearing had been opened, but there was nothing for people to comment on yet.

Mr. Thompson said he didn't want there to be any flaw in the application and its resolution; since members of the public were present, he thought they should be allowed to speak.

Mr. Reilly said Mr. Monti could invite public comments.

John O'Loughlin of 1 Vail Boulevard addressed the Board, stating that he has lived across the street from 955 Peach Lake Road for 30 years, and the property has looked run-down for years. He remarked that it has been a breath of fresh air to see the improvements being made, and he supports the project being proposed.

Joyce Smith of 1 Short Street agreed, saying the property looks beautiful. She said she would like to see how big the new indoor riding ring will be, as she already has a view of the existing structure which is an eyesore. Ms. Smith stated that the Youngs have done a good job caring for their property.

John Lombardo of 122 Dingle Ridge Road was next to speak. He said the previously-described "eyesore" is directly in his sightline. He acknowledged that all the work the Youngs have done on their property has been an improvement, but he has concerns about what was agreed to at the meeting in July. Mr. Lombardo said nothing in the resolution was complied with, and he did not see how the Youngs failed to understand what was required of them. He asked what recourse the Board has if the Youngs return in February

without a plan again. He also asked that the Board define the date by which the membrane structure must be removed, adding that he thought it would be September.

Mr. Reilly noted that the resolution states that the existing structure must be removed 18 months from the date of the amendment. He added that the application was held over/there is no amendment yet; however, if the amendment is granted next month, the Board may say that the applicants have only 17 months from February. Mr. Reilly noted that the applicants stated their intention to comply with the parameters of the resolution, the only difference being their request for more time to provide the schematic drawings because they misunderstood what was required by the resolution. He pointed out that if the applicants do not comply, it will be in the hands of the Building Inspector, who may find them in violation and they could lose their special permit.

Mr. Monti said he had asked Mr. Young if he intends to be finished by the end of June.

Mr. Young stated that he had said he will be finished by July, noting that the date of the resolution was July 11, 2013.

Mr. Reilly stated that if the Youngs do not provide a schematic plan next month, they could be found in violation of the special permit.

Mr. Lombardo asked if the membrane structure must be removed by June/July 2015 whether the Youngs build anything or not.

Mr. O'Leary said it would seem that they would not be able to build the new ring without removing the existing structure first, so it could be gone in about 9 months.

Mr. Young stated his intention to sell the membrane structure, have it removed, and then begin construction of the new ring.

Mr. Reilly stated that a Zoning Board resolution is not a court order; if the Youngs do not comply with theirs, the Building Inspector acts as the Zoning Enforcement Officer.

Mr. Lombardo asked if the Youngs have the option of deciding not to build the new ring/continue to use the membrane structure.

Mr. Reilly said they do not have such an option; removal of the membrane structure is a condition of their current special permit. He commented that such talk was hypothetical.

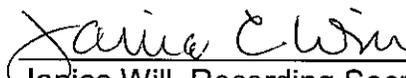
Mr. Lombardo said he realized that, but the applicants have already not done something that was expected/he just wanted to be prepared.

Eric Grasinger of 991 Peach Lake Road said he understood Mr. Lombardo's concerns, acknowledging a tendency to expect the worst after his experience with the previous owner of the property. Mr. Grasinger stated that he has gotten to know the Youngs, believes they will do what they have said, and they are nice neighbors.

Russell Monaco of 12 Deer Run Court was called on. He said he has known the Youngs for 3 to 4 years, and he believes they thought they were doing what was required of them. Mr. Monaco stated that anyone can see the profound change to their property, adding that the Youngs even had to evict a tenant. He noted that the Youngs held an event in the membrane structure to raise money for one of Mrs. Young's patients. Mr. Monaco also said he does not think they are being cavalier about their time commitment, but they have faced obstacles. He expressed confidence that they will provide rough drawings in 30 days as requested.

Noting there were no further questions or comments, Acting Chairman Monti closed the meeting at approximately 8:30 pm.

Respectfully submitted,


Jarice Will, Recording Secretary