

BOARD of APPEALS
Public Hearing
November 13, 2014
7:30 p.m., The Annex

MEMBERS PRESENT: Richard O'Leary
Cynthia McKean
Lisa Douglas
Brian Ivanhoe, Chairman

MEMBER ABSENT: James Murphy

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

Chairman Brian Ivanhoe called the November 13, 2014 Town of North Salem Zoning Board of Appeals meeting to order.

The next meeting date was set for December 11, 2014.

The minutes of the September 11, 2014 meeting were unanimously approved.

PUBLIC HEARINGS

BA14-33 Sean Partenio (85 Blackberry Ridge Road) – **Area Variance** – To decrease the minimum combined side yard setback in an R-1 zoning district, per Article V Section 250-15 and Article XIV Section 250-79 (A) (because the non-conforming lot is subject to R-1/2 bulk requirements). A setback variance of 21 ft. is requested (40 ft. required; 19 ft. existing/proposed) for legalization of an as-built deck with screened porch and a shed.

Sean Partenio addressed the Board, stating that the deck and shed were present when he purchased the subject property in 2007, and no issue arose with the title search. When he sold the property last year, the buyer's title search turned up the lack of documentation for the deck and shed; money was put in escrow to be paid to Mr. Partenio after the deck and shed are legalized. He said he thinks the deck is about 25 years old.

The Building Inspector, Bruce Thompson, said the previous owner of the subject property was granted an area variance for a side deck, but somehow the rear deck was overlooked. Mr. Thompson went on to say that when Mr. Partenio came to him for help legalizing the deck, he saw that a shed shown on the survey really requires a variance also.

Chairman Ivanhoe commented that the application was straightforward and asked if the deck is built to Code standards.

Mr. Thompson said Mr. Partenio provided drawings, and the deck is Code-compliant.

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

Mr. Reilly read a draft resolution, noting that both the deck and shed have been in existence for a long time and were missed in a previous variance application.

Motion by: Lisa Douglas
Seconded by: Cynthia McKean

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

Area variance granted, as requested.

BA14-34 Marian Zakerin (6 Lakeside Drive) – For demolition of a non-conforming single-family dwelling and construction of a new 2-story residence in an R-1 zoning district, per Article V Section 250-15 and Article XIV Section 250-79 (A) (because the non-conforming lot is subject to R-1/2 bulk requirements). The following variances are requested:

- Decrease the minimum combined side yard setback from 40 ft. required to 32 ft. proposed.
- Decrease the minimum rear yard setback from 35 ft. required to 16 ft. proposed.
- Increase the maximum building coverage from 10% permitted to 15% proposed.
- Increase the maximum development coverage from 25% permitted to 42% proposed.
- Increase the maximum F.A.R. from .20 permitted to .33 proposed.

The Chairman stated that BA14-34 would be held over to the December meeting.

The Building Inspector explained that the applicant's Co-op approval lapsed, so she needs to have that restored before the ZBA considers her application.

BA14-35 Gotham Enterprises LLC (741 Titicus Road) – Special Permit – To amend special permit BA14-19 (previously amended by BA14-26) for inclusion of a 4th employee dwelling unit and changes to previously submitted building and site plans.

Don Rossi, attorney for the applicant, was present. He noted that the Board had previously approved living quarters for 4 grooms. Amendment BA14-26 changed the number of dwelling units to 3, but now proposed design changes will free up room for a 4th apartment in the existing equipment building. Mr. Rossi stated that the new hay barn will now have overflow stalls on the lower level and equipment will be stored on the lower level of the new grooms' storage and apartment building, leaving room for the additional apartment (2 apartments on the upper level and one on the lower floor of the grooms' storage and apartment building; the 4th is an existing apartment in the indoor riding arena).

He said his client's intention is to minimize activity in this area of the farm by having overflow stalls on the lower level of the hay barn instead of farm equipment as originally proposed. Mr. Rossi said he would go over each of the proposed changes for the Board members.

Mr. O'Leary asked if the hay storage building is being relocated from another site on the property.

Mr. Rossi said it will be a new building; the structure to the left of the front of the barn is an existing building to which the extra groom's apartment is to be added.

Mr. Rossi stated that other changes proposed are a lesser expansion of the sand ring and a change to the adjacent patio and relocation of 2 run-in sheds in the paddocks where there are currently 2 houses that will be removed. He said there will be a re-design of the viewing pavilion.

Mr. O'Leary asked if they could cover the changes one by one as listed in the application. He noted the first point (relocating a run-in shed on what is now 749 Titicus Road), and he read the next point about removing stalls from run-in sheds on 749 and 751 Titicus Road.

Mr. Rossi stated that the structures were originally intended to keep horses in, but now will be true (albeit large) run-in sheds with no stalls or doors. He added that the 5 stalls to be constructed in the new hay storage building will replace those that would have been in the run-in sheds in the front paddocks and there will also be some equipment storage capability in the run-in sheds.

Mr. Rossi said the points above also cover Point #3 in the application. Next was construction of a gate at 749 Titicus Road. Mr. Rossi said this will be an upgrade of an existing entrance.

Mr. Rossi stated that instead of a previously-proposed covered pavilion for a horse treadmill, the treadmill will be in the new hay barn to the west of the existing derby field.

Chairman Ivanhoe asked if the entry gates will be at the former Newman driveway.

Mr. Rossi explained that the entrance was a common drive serving 749 and 751 Titicus Road.

Chairman Ivanhoe asked if the new gates will match existing gates on the Gotham property.

Mr. Rossi said he believes so, but there are no elevation drawings.

The Chairman said they will look best if they match the existing gates, and the Board would not want to be surprised by their appearance either. He asked how tall the gates will be.

The Building Inspector stated that if the gates (including support pillars) are within the required 75 ft. setback, they may only be 4 ft. high or a variance will be required; if they are more than 75 ft. from the front property line, the gates may be whatever height the applicant wants.

Mr. O'Leary noted that Sheet 1.1A indicates a distance of 75 ft. to the gates, but he thought it looked shorter.

Mr. Rossi agreed that the gates must comply with the Zoning Ordinance; if they are closer than 75 ft., he will return to the Board with a variance application. He said he could commit to a requirement that the new gates resemble the existing gates.

Mr. Reilly said he would include a condition in the resolution that any changes approved must comply with the Zoning Code/the special permit would not be valid otherwise.

Mr. Rossi asked that the condition only apply to the gates, adding that the site plan indicates they will be set back 75 ft.

Mr. Reilly said the applicant should make sure the gates are at least 75 ft. back/then no variance will be needed.

Mr. Thompson noted that the Board has consistently included any pillar-top light fixtures in the calculation of gate height, and he asked if the proposed gates are to have lights on them.

Chairman Ivanhoe said he does not think the existing gates have lights, and there is no entry key-pad with a screen. He said the Board would prefer that there not be a large key-pad.

Mr. Rossi said he knows there is a small key-pad with speaker at the entranceway to the barn.

Mr. Thompson added that the key-pad is on a pipe/not a pier.

The Chairman said he merely wanted everything to be consistent with the existing gates/key-pad.

Chairman Ivanhoe read point #5, elimination of 3 approved paddocks to the west of the existing derby field. He noted point #6, redesign of the proposed viewing pavilion, and asked if it required any discussion.

Mr. O'Leary said there is the addition of a bath not previously included, although there was already a kitchen, and now the building is larger.

Mr. Rossi said there is to be more stone work on the exterior than before.

Mr. O'Leary asked if the use of the building is to be changed, but Mr. Rossi said it will still be for private use, possibly including parties, and there will be no public events or shows.

Mr. O'Leary asked if the pavilion will tie in to an existing septic system.

Mr. Rossi replied that he thought not/the pavilion is a good distance from the existing septic.

Chairman Ivanhoe asked if there will be a full-bath or half-bath. He said he did not think there was a bath proposed for the building before.

Mr. O'Leary noted that Sheet 9.1 shows a half bath.

Mr. Rossi stated that points 7 and 8 had been covered already. He said point #9 (design changes to the interior and exterior of the barn) has to do with floor plan and exterior appearance, and point #10 (reconfiguration of the employee dwelling units in the storage/utility building) pertains to the 2 existing units in that building. He added that the apartments are going to be larger than before. Point #11 (sand ring and patio) was discussed earlier.

The Chairman noted that the point #11 changes are depicted on Sheet 10.1.

Mr. Rossi pointed out that the sand ring is in close proximity to the indoor arena and the barn and is reached by a ramp, and he described an attractive row of trees along a stone wall there. He said the patio has been re-designed to maintain more of the trees, creating a very nice viewing spot.

Indicating a drawing entitled Light Post Detail on sheet 10.1, Chairman Ivanhoe asked where/how many of these lights are proposed.

Mr. Rossi answered that he thinks the light posts will be installed along the patio area, per plan notes labelled B10.1.

The Chairman remarked that they would not impact any neighbors there, and the bulbs are glassed-in. He added that he was pleased to see vents instead of windows in the barn cupola now.

Mr. Rossi pointed out that the lights will be between the sand ring and the indoor arena and nowhere near any neighbors. He remarked that given the size of the project, field changes are bound to come up (concerning trees for example), and he asked that the condition customarily included in resolutions that all work must be according to submitted/approved plans be changed to one that there only may be no significant changes from submitted/approved plans.

Mr. Reilly was not in favor of Mr. Rossi's suggestion and said it would not be appropriate to make such subjective determinations about significance the responsibility of the Building Inspector.

Mr. Thompson stated that the farm is a private operation, and the Board has not been that specific with applications for private farms in the past, even on such a large scale. He said planting of trees, etc. could be left out of a condition.

Mr. Rossi said another example might be the need to move a shed a couple of feet for installation of a septic system in a better or less expensive location than originally planned.

Chairman Ivanhoe said there would not be a problem with field changes as long as the Building Inspector is aware.

Mr. Thompson said he agreed, as long as the spirit of the approval is understood. He added that the as-built survey will show everything. He went on to say that the paddock layout has been provided/all the paddocks will be grass; if a fence-line needs to be moved a little bit, that will be fine.

Mr. Rossi said he just wanted to be sure the resolution would not state that there could be no changes at all.

Mr. O'Leary suggested that the statement be that field changes are acceptable as long as they don't violate the Zoning Ordinance.

Mr. Thompson said if the width of a walkway or driveway apron needs to be widened or altered, that would not be a problem either.

Mr. Reilly said the condition could be that field changes will be permitted with the Building Inspector's approval, but none that would be against the Zoning Ordinance. He said he would not want to see a future owner of the property find themselves in need of an area variance for something done by the current owner without consulting the Building Inspector.

Mr. O'Leary indicated a run-in shed on the proposed site plan with a setback of 155 ft., and he asked if they aren't required to be at least 150 ft. from the property lines.

Mr. Thompson said the Board may reduce the setback requirement to 75 ft.

Mr. Reilly remarked than a change from 150 ft. to 75 ft. would be significant.

Mr. O'Leary said his point was that if the shed were moved a little to a setback of 151 ft., it would still be Zoning compliant.

Mr. Reilly agreed that the Board could say field changes at the discretion of the Building Inspector would be permitted.

Mr. Thompson said that if anything suggested were in contravention of the guidelines in Section 250-72, Mr. Rossi/his client would have to return to the Board.

Turning to Sheet 1.1, Mr. O'Leary asked if there will be any change in the use of a barn at the bottom of the derby/grand prix field.

Mr. Rossi did not think so.

Mr. Thompson stated that the building is used for jump storage/not as a stable.

Lisa Douglas asked why the change from 4 groom's to 3 and back to 4.

Mr. Rossi said it was because the new building will have more room on the first floor than needed for storage, so his client thought to have another groom's apartment.

Ms. Douglas asked why the number was ever reduced to 3 groom's.

Mr. Rossi admitted he did not know.

Chairman Ivanhoe called on Marilyn Leslie of 37 Hilltop Drive who said her property borders the applicant's property. She asked if someone is living at 39 Hilltop.

Mr. Rossi said 39 Hilltop is a separate lot from the subject property but was part of the lot-line adjustment recently approved. He explained that 39 Hilltop now has 13 acres, 7 having been transferred to 741 Titicus Road. He noted that 39 Hilltop also has a special permit for the keeping of horses for personal use. Mr. Rossi said he believes the house is occupied, but it is not part of the operation described in the application.

The Chairman commented that there were groom's quarters in the barn at 39 Hilltop Drive when the Pintos owned it.

Ms. Leslie thanked Mr. Rossi and the Board.

Mr. O'Leary returned to sheet 10.1 to ask about the lights on posts depicted. He said that if the post was historic-looking with multiple little 25-watt candelabra-type bulbs, the light would not transmit very far, whereas if they are commercial-grade fixtures/street lights, it will look like a shopping mall from Hilltop Drive.

The Chairman said he thought the lights would only be visible from 39 Hilltop.

Mr. Rossi said he does not think there will be many of them/just around the patio, and 39 Hilltop is at a much higher elevation. He added that the main residence on the subject property is much closer to the patio/lights and the applicant would be concerned also.

Ms. McKean recalled that no one had realized ahead of time the amount of light that would emanate from the clerestory on the indoor riding arena at 741 Titicus Road (per BA10-29, arena not to be utilized between 8 pm and 5 am).

The Chairman noted that the Board had not been given specs re the light bulbs for the lampposts.

Mr. Rossi said the drawing of the light posts is somewhat historic-looking.

Mr. Thompson said Sheet 10.2 indicates one light post at either end of the patio.

Mr. O'Leary still felt that a sort of lamp as opposed to something that would look like a street light would be better.

The Chairman commented that installation of more light posts would be more than a field change/the Board's approval would be necessary.

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

Mr. Reilly read a draft resolution, including a condition that field changes from the submitted plans dated October 17, October 21 and October 24, 2014 will be permitted, subject to the opinion of the Building Inspector.

Motion by: *Lisa Douglas*
Seconded by: *Cynthia McKean*

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

The meeting was adjourned at approximately 8:25 pm.

Respectfully submitted,



Janice Will, Recording Secretary