

BOARD of APPEALS
Public Hearing
February 12, 2015
7:30 p.m., The Annex

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

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

Chairman Brian Ivanhoe called the February 12, 2015 Town of North Salem Zoning Board of Appeals meeting to order.

The minutes of the January 8, 2015 meeting were unanimously approved.

The next meeting date was set for March 12, 2015.

The Chairman announced that the Board would be taking the agenda items out of their published order, beginning with the one new application.

PUBLIC HEARING:

BA15-02 Stony Creek Horse Farm LLC (172 Baxter Road) – **Special Permit** – To amend Special Permit BA14-16 (commercial boarding operation for up to 15 horses) to include up to 12 additional horses (27 total) and 6 new paddocks, per Article XIII Section 250-72.

Michael Sirignano, attorney for the applicant, addressed the Board, stating that his clients have taken title to the subject property since they were granted a Special Permit for 15 horses in May of 2014. Mr. Sirignano said the May 8, 2014 meeting minutes make clear that the Board was open to consideration of future amendments to increase the number of horses to be kept once some improvements were made to the property. He said 7 medical paddocks have since been added (total of 10), and other improvements include re-grading of the indoor and outdoor rings, grass seeding and fertilizing, re-grading of the driveway and parking area, and improvements to buildings, HVAC and electrical systems. Mr. Sirignano said his clients are now requesting that the total horse-count be increased up to 27, and he asked the farm manager, Chris DeFilippis, to speak about turn-out of horses and rotation of paddocks.

Mr. DeFilippis stated that the 10 medical paddocks (approximately 32 ft. x 16 ft.) will be sufficient; of the 6 grass paddocks, 5 will be used at a time/rotating a 6th out to allow time to recover and thrive during the growing season. He said 20 horses will be able to rotate through 5 grass paddocks for 2 hr. turn-outs, and all 6 paddocks will be used after October as long as they are dry or snow-covered/frozen. He added that once there are 20 horses, 4 additional/ larger medical paddocks will be built.

Chairman Ivanhoe asked if the northern-most paddock will be divided up for the 4 new medical paddocks.

Mr. DeFilippis said they will be at the western-most paddock and not created by dividing the paddock; rather, a 36 ft. x 42 ft. section will be built up at the downhill fence-line where they won't really be visible from the road or the entrance to the property.

The Chairman stated that the new Stony Creek operation is different from the previous one and requires more intensified turn-out. He said Mr. DeFilippis had stated that the horses will be turned out for 2 hrs, but they have recently been out all day. Chairman Ivanhoe asked how many horses are being kept at present.

Mr. DeFilippis replied that there are 15. He said the situation is not actually very different from the previous operation, because all the horses are in a training program at present/ being ridden 5 times a week.

Chairman Ivanhoe said this is a good change and 2-hour turn-out is better.

Mr. DeFillipis stated that when not in the large paddocks for turn-out, the horses will be in the medical paddocks more than in their stalls. He added that the top soil in the medical paddocks is to be removed and replaced with Item 4 as soon as possible/there was not time to do it before the ground froze.

The Chairman asked about the fence shown on the submitted site plan that separates the medical paddocks from the larger paddock. He commented that this separation would be sensible, especially given that there are spaces between the medical paddocks.

Mr. DeFilippis said the Building Inspector and the Watershed Agricultural Council had come to the farm, and the plan to be implemented includes the separate fence and also 2 drainage proposals.

The Chairman commented that just putting in Item 4 will help with drainage.

Mr. DeFilippis said that, although the turn-out schedule is based on single turn-out, in actuality 8 of the current horses go out paired up.

Chairman Ivanhoe said doubling up horses is good when it can be done. Acknowledging the improvements already made, he added that the Board will also want to see how the farm fares with new management, especially given the large number of horses. The Chairman recalled a discussion of number of grooms per horse and said he thought the

proposal was one groom for 10 horses. Noting that there are now 15 horses, he asked if the plan is to bring in another groom when the number of horses reaches 20.

Mr. DeFilippis said he already has a day helper for the stalls, and the current groom can manage 15 horses with someone else taking care of most of the stalls. He went on to say that somewhere between 15 and 20 horses the current day helper will take over maintenance of all the stalls, and the groom will be responsible for feeding and turn-out of the horses. Mr. DeFilippis added that it is not a full-service barn/there is not a lot of tack work to be done.

Chairman Ivanhoe asked about picking out the paddocks, and Mr. DeFilippis answered that both employees will take care of it.

The Chairman said it is important to be sure the employees are actually picking out the paddocks and not just spreading manure.

Mr. DeFilippis acknowledged that this had been a problem, but he has dealt with it.

Mr. Sirignano indicated tandem parking for 15 vehicles in the existing parking areas. He said the owner and Mr. DeFilippis will park in front of the dumpster, so the proposed tandem parking should be adequate and no additional parking area should be needed.

Chairman Ivanhoe remarked that the improvements made so far are all good. He said he would be comfortable with increasing the number of horses to 20 and wanted to hear the opinions of the other Board members about the requested 27 horses. The Chairman wondered whether some kind of step-plan might work and he said he would like to see the operation go through spring and into summer before permitting the full 27 horses.

Mr. Sirignano said there is enough interest in boarding at the farm to need up to 25 horses now.

Mr. DeFilippis explained that someone is interested in leasing 7 stalls, and the farm is at the maximum permitted 15 horses already.

Lisa Hennessey, owner of the subject property, explained that 2 horses are only on the farm for a month and three are for sale, so the numbers will vary.

Peter Hennessey added that 2 horses are gone for the entire winter.

Mr. DeFilippis said the owners of 2 horses from The Fairfield Club want to see the farm. He stated that he is prepared to have 27 horses and will hire the day helper as a full-time groom when the number of horses reaches 20. He added that the new medical paddocks can be put in with 3 days' work.

The Chairman pointed out that the ground is solid now. He read an e-mail from a neighboring property-owner, Richard T. Button of 115 June Road. The e-mail stated Mr. Button's concerns about the proposed number of horses and the 10-year term of special

permits. Mr. Button also expressed encouragement of the use of the property as an equestrian facility.

Chairman Ivanhoe said the Board does not usually shorten special permits to periods of less than 10 years.

Cynthia McKean asked to hear how 6 grass paddocks and 10 medical paddocks will be sufficient to turn out 27 horses for 2 hours per day.

Mr. DeFilippis stated that once there are to be more than 20 horses, he will create 4 more grass paddocks [*by dividing an existing paddock*].

Ms. McKean noted that would be 10 grass and 10 medical paddocks.

Mr. DeFilippis reiterated that some horses will be allowed to stay out in the medical paddocks after turn-out, but some horses will be returned to their stalls. He added that few local farms have land enough for grazing, but Stony Creek does have enough room for turn-out.

Ms. McKean commented that the paddocks will have horses in them all day if there are 27 horses and asked what Mr. DeFilippis would do if the summer is wet.

Mr. DeFilippis said that in order to properly maintain the grass paddocks, they may not be used at all when wet; the horses would be turned out in the medical paddocks and those that are ridden every day do not need turn-out.

Chairman Ivanhoe stated that some intensely-used farms don't open their grass paddocks until June in order to keep the grass, depending on how wet they are; well-drained or high paddocks may open in May. He said there needs to be a plan in place for shutting down paddocks on a rotating basis.

Mr. DeFilippis said that over the 4 years when he was at Pink Cloud Farm, he maintained the grass paddocks successfully. He added that the areas immediately around the gates will always have dirt/it can't be helped.

The Chairman suggested that once the grass paddocks are "grazed down" or in the early spring, the horses should be hayed to keep them away from the grass.

Mr. DeFilippis was agreeable to the Chairman's suggestion.

James Murphy said it appeared that Mr. DeFilippis has been through a learning process since last spring, and he was caught by the arrival of winter weather. Mr. Murphy thought it would be better not to amend the special permit for the full 27 horses requested but to allow a smaller increase and re-visit the issue again later on, hopefully seeing that progress continues to be made.

The Chairman thought this was a good observation.

Mr. DeFlippis said he has not been on a learning curve/he has been managing farms for 20 years; the problem was that the Hennesseys did not own the farm when they first accessed it, and they did not want to invest large amounts of money in it then. The medical paddocks were put in late/close to the time when the Hennesseys would close on the property, and work was held up to give the Building Inspector time to look at the paddock layout. The paddocks were in, but the weather changed before the top soil could be swapped out for Item 4.

Based on her recollections of what was discussed at the May 2014 meeting, Ms. Douglas said she thought the applicants had gone above and beyond what the Board asked them to do, and she noted that Mr. DeFlippis has 20 years' experience successfully running horse farms. She added that the Board had said they would be open to increasing the number of horses to 27 after starting with 15. Ms. Douglas said it seemed to her that the applicants had been told to come back to request the larger number of horses after accomplishing certain things, and they have done that.

Chairman Ivanhoe said he read over the May 2014 meeting minutes, and the Board's main concern at the time had been that there was no plan submitted. He commented that it would be especially hard to approve the special permit as requested without one, given that the farm is to be a different kind of operation from what was previously maintained on the subject property. The Chairman noted that the Board moved up from their initial proposal of 10 horses to 15, but they also wanted some kind of track record for maintaining a number of horses on limited land.

Ms. McKean said she agreed with the Chairman's earlier comment that the Board has not seen how the operation fares throughout a full season, the challenge being the spring. She said that when the applicants first leased the property, it was May and the grass was established by then.

The Chairman added that the paddocks had not been used for close to 2 years before then, so they were in especially good condition.

Ms. McKean said the Board should see how Mr. DeFilippis manages the horses in the wet spring. She noted that the subject property is a small parcel for 27 horses, so she would be more comfortable with increasing the number in increments.

Mr. DeFilippis said that at Pink Cloud there were no medical paddocks, and he kept the grass up for 4 years and the farm in great shape. He said there were 14 horses/the property is a little bigger than Stony Creek.

Ms. McKean said the Board had not checked to see how Pink Cloud Farm was maintained.

Mr. O'Leary asked when the applicants took ownership of the subject property, and Mr. Hennessey replied that the closing was in December.

Mr. O'Leary noted that the current special permit is for 15 horses and the applicants want to have 27/an increase of 12. He commented that renting the 7-stall module would require

permission for 22 horses. Mr. O'Leary thought Mr. DeFilippis had said that 20+ horses would trigger installation of more paddocks/and or hiring of more help, and he asked Mr. DeFilippis to explain again.

Mr. DeFilippis stated that at 20 horses, he would build additional paddocks; if he gets the horses before the spring thaw, he would rotate the horses through the frozen or dry grass paddocks. He added that the medical paddocks would also be adequate because more than half of the horses go out in pairs. Mr. DeFilippis said he calculated the turn-out based on single usage, but 8 of the current horses go out in pairs.

Chairman Ivanhoe commented that horses graze at the same rate whether they are together or go out separately/2 horses graze twice as much as 1.

Mr. DeFilippis said the small property will only be good for grazing for a few months a year.

The Chairman said the Board's concern about small farms with high horse-counts is that they do not want to see them turn into dirt, especially one like Stony Creek that is on a historic road and part of a beautiful viewshed that is protected by conservation easements. He said his sense of the Board was that they were not inclined to grant the amendment for all 12 horses/perhaps a smaller increase would be reasonable.

Mr. Sirignano said the economics of having more horses enables the owners to invest more money in improvements. He commented that it was not fair to ask his clients to keep returning to the Board with new special permit applications, and he asked the Board to grant an amendment for 7 additional horses now and 5 more in the summer or fall after an inspection by Mr. Thompson.

Chairman Ivanhoe noted that there is an annual inspection (fire inspection) any way. He said he thought the Board would more likely agree to one firm number and wait to see how the farm does with about 20 horses through August.

Mrs. Hennessey said Mr. DeFilippis is already doing very well. She added that the huge effort put forth to restore the property has been very costly, they paid all the back taxes owed but the property is not eligible for an Ag exemption yet, and it costs more to have to come back to the Board again.

The Chairman agreed that a great job has been done, and he does not want to diminish that accomplishment, but he is concerned for the land. He remarked that some of the difficulty is a self-imposed hardship in that the Hennesseys and Mr. DeFilippis knew what would need to be done. He said their accomplishments show the Board that they will do the right thing with the farm. Chairman Ivanhoe said he wants to give them the horse-count they want, but everyone wants to be sure the operation will work, and he was not sure if there was a way to build steps for additional horses into a resolution.

Mr. Reilly said the Board will need to see a specific plan to support a larger number of horses, which will require a new application, and it sounded to him as though the current plan may change after the summer based on what happens; if the resolution includes a step-up number, the Board will not have a plan that conforms to that. He added that

applying for an amendment is not as arduous as an application for a new special permit. Mr. Reilly said he could not recommend including a step-up in the resolution.

Chairman Ivanhoe said he did not think the Board would approve 12 more horses yet.

Mr. Sirignano asked if they would grant the amendment for 7 more horses.

Mr. Hennessey said this would enable them to rent the 7-stall barn.

Ms. Douglas said she thought this was reasonable.

Mr. Sirignano said his clients were prepared to accept an amendment for a total of 22 horses.

Mr. Reilly asked if this number would be maintained with the existing/same number of paddocks, and Mr. Sirignano said they would.

The Chairman said it seemed as though the Board would be comfortable with 20 horses.

Mr. DeFilippis said that if half the horses are ridden daily, those horses will not require turn-out at all.

Ms. McKean remarked that she did not think Mr. DeFilippis could do this.

Mr. DeFilippis said a lot of horses, for different reasons, are not turned out; if a horse gets out for a good exercise-ride, it does not need to be turned out. He further stated that the subject property has always sustained a large number of horses, and he believes that if a turn-out regime is followed, it will be fine/the grass will be maintained as it was in the past.

Chairman Ivanhoe said the previous operator ran the farm for a long time/it was not easy to get a special permit for 30 horses.

Carol Goldberg of 22 Wallace addressed the Board, saying she kept 22 horses on 10 acres, and it works by policing the operation. She said that of the 22 horses, 10 were probably ridden by clients for a couple of hours, so those horses weren't turned out that day/some days clients rode all the horses. She said that with proper scheduling and organization, the operation can succeed and the land will look good.

Chairman Ivanhoe thanked Mrs. Goldberg, noting her good reputation for horse-farm management in the past. He commented that the Board was dealing with the less-known track record of Mr. DeFilippis in this instance.

Mrs. Hennessey stated that the loss of one client caused the implosion of the operation run by the previous owner of the subject property through no fault of her own. For Stony Creek to be viable, they need at least 22 horses now to enable them to rent the 7-stall barn. She added that it will be a kind of rolling number in that horses will come and go.

Mr. Sirignano stated that he felt 7 additional horses would be a reasonable compromise, and his clients will return in the fall to ask for 5 more.

Chairman Ivanhoe said he would close the public hearing.

Ms. Douglas asked if Mr. Thompson would have to monitor the farm operation or what the process is.

Mr. Thompson said the regular annual inspection is for fire safety, but it is also an opportunity to check on farms in terms of the conditions of their special permits. He said he thinks the applicants/Mr. DeFilippis are aware of the standards for maintaining grass, and he will be able to see if it is over-worked and eroding or in good condition. Mr. Thompson said he would not mind making extra visits to Stony Creek, and an increase of 7 more horses was fine with him. He said manure-picking will be scrutinized also; medical paddocks are to be picked out daily and the large paddocks picked out every 3 days. He added that if the grass is poor/the paddocks are not picked out, the farm will receive notification of that observation immediately, and they must return to the ZBA to respond to his report.

Mr. O'Leary said he found the number 7 arbitrary, due just to the size of a building, but it also seemed a reasonable next step and was acceptable to him.

The Chairman agreed that enabling the applicants to rent the 7-stall barn would be a good thing.

Mr. O'Leary said that if years instead of months had gone by, the Board could have better evaluated the situation; the interim addition of 7 horses is an acceptable move in the right direction.

Mr. Reilly read a draft resolution for an amended special permit for a total of up to 22 horses and 7 new medical paddocks. He noted that the conditions of BA14-16 will remain in effect, and the amended permit will run from the start-date of BA14-16.

The Chairman asked Mr. Reilly to add that the Board wants to be able to observe the farm through August before they will consider additional horses; that medical paddocks are to be picked out every day and regular paddocks picked out every 3 days; and that fly predators are to be employed.

Motion by: *Lisa Douglas*
Seconded by: *Richard O'Leary*

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

Special permit amendment granted, with specific conditions per discussion and agreement.

HEARINGS HELD OVER:

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 applicant asked to be held over to February.

BA15-01 Three Willows Farm (461 Grant Road) – **Area Variance** – To allow construction of a second single-family dwelling on a lot, per Article III Section 250-9 (C). The applicant wishes to occupy an existing residence while a new house is under construction, after which the existing house is to be demolished.

The public hearing of this application was re-opened.

Jamie Kieper of Insite Engineering stated that her office had neglected to mail the Notices to Property-Owners regarding the January public hearing. Apologizing for the error, she said the Notices have since been mailed out for the February meeting.

There was no correspondence received regarding this application, and no questions or comments were raised at the meeting

Chairman Ivanhoe closed the public hearing.

Mr. Reilly instructed the Board members to vote again.

Motion by: Lisa Douglas
Seconded by: Richard O’Leary

Mr. O’Leary: Aye
Ms. McKean: Aye
Ms. Douglas: Aye
Mr. Murphy: Aye
Chairman: Aye

Area variance granted, as requested.

BA14-37 Rylan West Realty, Inc. (contract vendee, 621 Route 22 and 8 Maple Avenue) – Request for a change of use in a GB zoning district from a pre-existing, non-conforming use to one which is more similar to permitted uses, albeit also non-conforming, per Article XIV Section 250-80 (B).

Don Rossi, attorney for the applicant, stated that the applicant's son and daughter-in-law, Eric and Evelyn Ryzerski were present. Mr. Rossi noted that concerns were raised about the uncertainty of the use of the subject property if the Board were to grant the generic Tradesman use requested, and he prepared a site plan to show them (which was also submitted to the Planning Board). He indicated where the rear of the building, a section of sheds and the storage racks on-site are to be removed to facilitate flow. Mr. Rossi stated that the area near the Maple Avenue gate is to be used for parking/there will be no entrance/exit there, and an existing concrete pad on the lot will continue to be used for storage.

Mr. Rossi said he met with the Planning Board Chairperson, Cynthia Curtis, and the Town Attorney, Roland Baroni, in order to focus on limiting the types of Tradesman Office uses that would be permitted. He stated that a list of these uses is included in a draft resolution prepared by Mr. Reilly/distributed to the Board members. Mr. Rossi said he realized late in the day that the list was not complete, and he made some additions to the draft which Mr. Reilly agreed to. The list of acceptable uses follows, with the later additions in italics.

- Electrician
- Alternative energy installer/serviceman
- Plumber (*including irrigation and lawn-sprinkler installer/serviceman*)
- Painter
- Carpenter (*including tile, glass, mirror and water-proofing installer/serviceman*)
- Roofer (*including gutter installer/serviceman*)
- HVAC installer/serviceman
- Security system installer/serviceman (*including audio/visual and technology installer/serviceman*)
- Swimming pool installer/serviceman
- Locksmith
- *Handyman (but not general contractor)*

Mr. Rossi said he had one other open item he wanted the ZBA to consider, noting that Ms. Curtis and Mr. Baroni had not agreed with him. Mr. Rossi explained that the existing storage sheds will be enclosed with doors and not offer flexibility for limited outside storage. He said the Ordinance definition of Tradesman Office includes the phrase, "contained and screened", which he does not think means inside a closed building but rather screened and secured.

Mr. Ryzerski said he assumed this all along and planned to have some of this kind of storage.

Mr. Rossi stated that the ZBA permitted outside storage for the Brigham's Corner property up to the extent of 20% of the site/anywhere on the site. He said he and his clients had

always taken the wording in the Tradesman Office definition to mean a specific designated area of the lot that may be used/is screened from view. Pointing to an area on the site plan, he said it is an approximately 30 ft. x 40 ft. rectangular area adjacent to the existing sheds and against a retaining wall at the rear of the property. He said the grade rises upward at that point.

Chairman Ivanhoe said he thought the Board would be working with the draft resolution forwarded to them by Mr. Reilly, with the inclusion of some additional uses as described by Mr. Rossi.

Mr. Reilly stated that the Board had what was agreed to plus some minor changes requested by Mr. Rossi and agreed to, but the agreement specifically precluded any mention of any outdoor storage. He reminded the Chairman that the public hearing was closed in December.

Mr. Rossi did not believe this to be a problem, technically, because his clients have the same interest that the Town does in seeing that the approval not be "on rocky ground" legally. He stated that they originally requested a broad approval from the Board; the Board indicated that the request needed to be more specific, and now it is/there is a list of uses agreed to by his clients, Ms. Curtis and Mr. Baroni. Mr. Rossi said there was no misunderstanding that they were interested in having outside storage. He stated that the Tradesman Office use definition allows for some storage on-site/not in a building, and the specific permitted uses would be a condition of the application's approval. He said they agreed to limit the uses and would accept a limit to the extent of any outside storage.

Chairman Ivanhoe asked if the Board was to consider the list of specific uses and some outside storage.

Mr. Reilly said a designated loading/unloading area was agreed to, but there was no agreement to outside storage. He pointed out that this suggestion was being raised 2 months after the closing of the public hearing.

Chairman Ivanhoe said the situation was unusual because of the section in the Ordinance (allowing the Board to determine that a use is more similar to conforming uses), and he added that he believed that everyone wants the same thing. He said he would only be comfortable voting on the aspects of the request that all parties involved have agreed to, and this latest addition would require another meeting with Ms. Curtis and Mr. Baroni

Mr. Rossi disagreed, saying that it would be worked out as part of prosecuting the site plan application before the Planning Board.

Mr. Reilly said it could be brought up as part of the site plan approval process, but Mr. Rossi would then have to return to the ZBA.

Mr. Rossi said he did not want to come back to the ZBA; the Board of Appeals makes ZBA decisions independently of the Planning Board.

The Chairman said he had seen 2 versions of a draft resolution that the ZBA could vote on. He asked if Mr. Rossi was asking to have outside storage included in the resolution or just to hear that the ZBA is agreeable to the idea.

Mr. Rossi said he would add at the end of the resolution after the conditions listing the permitted Tradesman uses that, consistent with the limitation on the uses, there could be a specific limited area where materials may be stored outside if contained and screened. Mr. Rossi stated that only the Board of Appeals may make this decision, and they may make it clear that the outside storage would be only for the approved Tradesman uses.

Mr. Reilly said the Board was being asked to approve a potential Area Variance, and there had been no public hearing or Notice of anything to do with a variance/it would be improper to do so.

Mr. Ryzerski stated that the reason the issue seems to have come up so late is that weeks were just spent coming up with a list of acceptable uses from within the Tradesman Offices definition in the Ordinance, which also states that materials must be contained and screened, whereas the draft resolution just received states that materials be kept in a building unless they are being loaded/unloaded. Mr. Ryzerski said he had not realized that the change was part of the resolution. He said he had always taken the wording in the Ordinance to mean that he would be able to maintain a small area for storage outside, with screening.

Mr. Rossi said he had always taken the Ordinance to mean that.

Chairman Ivanhoe said it might be dealt with by the Planning Board.

Mr. O'Leary thought the applicants should try and negotiate the outside storage area with the Planning Board, given that it was not part of their application to the ZBA.

Mr. Reilly stated that a building is any structure with a roof, existing or to be built in the future, and may possibly require a variance.

Mr. Rossi said the limited storage area he was proposing was easy to approve, because of its limitation. Then it would be designed and shown to the Planning Board; if the Planning Board does not like the screening or thinks the area is too close to the property line, his client would have to return to the ZBA/the Board was not being asked to grant a variance now.

Mr. Reilly said Mr. Rossi wanted to add a specific area for additional storage.

Ms. Douglas said that if the wording in the draft is changed to "a building" from "the building", it would not identify anything specific for the ZBA to approve; afterward, something specific would be submitted to the Planning Board.

Mr. Rossi said that if his clients sought to build a structure in the area noted, they would definitely require an area variance. He also said that if the ZBA were to say that storage may only be in a building, his clients cannot go to the Planning Board with a site plan

including outside storage. He said his clients want to have the option, in the event that all the storage sheds are in use, to use the outside space temporarily.

The Chairman could not see anything about this to object to.

Mr. Reilly said this was provided for with a statement that temporary outdoor storage would be permitted in a loading/unloading zone, but Mr. Rossi wants permanent outdoor storage permitted.

Mr. O'Leary read, "... all storage of materials, equipment and supplies shall be contained in the (a) building, except temporarily in a designated loading/unloading zone." He said it sounded as though Mr. Rossi wanted to add, "... or in areas contained and screened".

Mr. Ryzerski said that would be fine with him.

Mr Rossi offered to go further and designate the area specifically.

Chairman Ivanhoe thought the Board preferred not to be specific but was agreeable to including, "... or in areas contained and screened".

Mr. O'Leary agreed, saying that if containment and screening are to be quantified, it will be done by the Planning Board; if they determine that storage may only be in a building, the applicants will return to the ZBA.

Mr. O'Leary said the resolution should include something about quantification of location, containment and screening being controlled by the Planning Board per site plan review. He added that if either the Planning Board or the Building Inspector determined that the storage site is a structure, the applicants will return to the ZBA for an area variance.

Mr. Reilly pointed out that Ms. Curtis and Mr. Baroni did not want outside storage included.

Mr. Murphy remarked that it seemed as though Mr. Ryzerski came to the Board in good faith but, as a result of negotiations outside those conducted by the ZBA, he now felt something he had counted on was being made unavailable.

The Chairman suggested voting on the draft resolution with an addition at the end to include "areas contained and screened".

Mr. Rossi stated that Ms. Curtis and Mr. Baroni added the "temporary loading/unloading zone"/it is not part of the Tradesman definition in the Code.

Mr. Reilly said that was true, but it was part of what was negotiated.

Mr. Rossi said he had not agreed to it, and Ms. Curtis/Mr. Baroni did not agree to any outside storage. Mr. Rossi also said he did not see how the Building Inspector could determine whether or not something was being stored temporarily.

The Chairman thought the part about temporary loading/unloading could be left out and the Board need not require a specific area for the outside storage.

Mr. O'Leary commented that he did not see how the Board could consider cutting out something that is permitted by the Zoning Ordinance, but Mr. Reilly said it was because the use is not a permitted use in the GB zoning district.

Mr. Reilly said he will make the changes to the resolution that he and Mr. Rossi spoke about and include, "... or areas contained and screened (and regulated by the Planning Board)".

Ms. Douglas asked to hear the entire corrected section, and Mr. Reilly read it to her:

"... including vehicle parking, but all storage of materials, equipment and supplies shall be contained in a building, except temporarily in a designated loading/unloading zone or in areas contained and screened as regulated by the Planning Board."

Mr. Rossi asked to have the section about loading/unloading removed, but the Board did not agree to this.

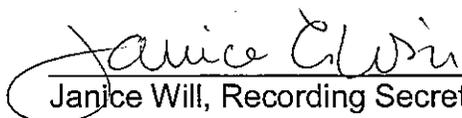
Motion by: James Murphy
Seconded by: Lisa Douglas

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

Use change granted, as requested, with specific conditions per discussion and agreement.

The meeting was adjourned at approximately 9:10 pm.

Respectfully submitted,


Janice Will, Recording Secretary