

**BOARD of APPEALS**  
**Public Hearing**  
**February 11, 2016**  
**7:30 p.m., Town Meeting Hall**

**MEMBERS PRESENT:** Richard O'Leary, Acting Chairman  
Cynthia McKean  
Emily Barrett  
Brian Ivanhoe, Chairman (late to meeting)

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

*Acting Chairman Richard O'Leary announced that Chairman Brian Ivanhoe had been detained and called the February 11, 2016 Town of North Salem Zoning Board of Appeals meeting to order.*

The next meeting date was set for March 10, 2016.

The minutes of the December 10, 2015 meeting were unanimously approved.

**HEARINGS HELD OVER:**

**BA15-30** Joseph Bryson (2 Fields Lane) – **Use Variance** - For the re-establishment of a gas station with addition of an accessory convenience retail store, pumping of gasoline, and continued operation of an existing tow-repair business, per Article IV Section 250-11 and the Table of General Use Requirements for the R 1/2 zoning district.

**BA15-31** Joseph Bryson (2 Fields Lane) – **Area Variance** – For the operation of a gasoline station with convenience store and tow-repair business in an R-1/2 zoning district, per Article V Section 250-15, Article VI Section 250-20 and -22 (C), Article VIII Section 250-35 (B), and Article XIII Section 250-73 (B, C, and D), the following variances are requested:

- a. To allow application of Use Group "L" (retail gas/convenience store) lot area and bulk standards as permitted in the GB zoning district.
- b. Decrease the gas station access point distance from the intersection of the designated street line from 100 ft. required to 40 ft. proposed.
- c. Decrease the front yard setback from 35 ft. required to 13 ft. proposed for installation of 4 fuel pump islands with a canopy.
- d. Decrease the rear yard setback from 50 ft. required to 40 ft. proposed for installation of a diesel fuel pump island.
- e. Increase the maximum height of a fence in a side yard from 5 ft. permitted to 7 ft. for a fence and 11 ft. for a retaining wall.
- f. For areas where the required 10 ft.-wide landscaping cannot be provided, a variance of 10 ft. is requested.

- g. Decrease the side yard setback from 20 ft. required to 11 ft. proposed for a trash enclosure and to 1 ft. for an off-street loading berth.

*These two applications are still under SEQRA review by the Planning Board.*

**PUBLIC HEARINGS:**

**BA16-02** Patricia Listman Gumbs (12 First Street ) – **Area Variance** – To decrease the minimum required rear yard setback in an R-1/2 zoning district so that a Certificate of Occupancy may be issued for an as-built detached garage that exceeds a previously granted variance (35 ft. required; 29 ft. approved; 28 ft. existing), per Article V Section 250-15.

Patricia and Kenneth Gumbs were present. Ms. Gumbs stated that her husband built the garage and tried to keep the structure to the rear setback allowed by a previous variance. Ms. Gumbs added that there had been some miscommunication about whether the requested variance was for a setback of 27 ft. or 29 ft., but the variance was granted for 29 ft.; the finished garage has a rear setback of 28.7 ft. She said she hoped the Board would grant the variance, adding that she thinks the garage is an asset to the property.

Mr. O’Leary noted there were no questions or comments from either the Board or members of the public and closed the public hearing.

Gerald Reilly read a draft resolution, noting that the request is a very minor variation from the previous area variance.

**Motion by:** *Cynthia McKean*  
**Seconded by:** *Emily Barrett*

**Ms. McKean:** *Aye*  
**Ms. Barrett:** *Aye*  
**Mr. O’Leary:** *Aye*

***Area variance granted, as requested.***

**BA16-03** Jacalyn Kamenstein (119-151 and 155 Finch Road) – **Special Permit** - For the keeping of up to 25 horses and maintenance of a commercial boarding operation, per Article XIII Section 250-72.

Don Rossi, Ms. Kamenstein’s attorney was present. He displayed an enlarged GIS map of the two properties, stating that one reason for the application was to change the ownership of the property to Ms.Kamenstein. Mr. Rossi explained that the property was previously owned by Peter Kamenstein, Town Board member. Mr. Rossi stated that there is currently a special permit for 8 horses, and his client wants to expand the operation to up to 25 horses to be kept in existing buildings (currently 18 stalls with room to expand). He said Tax Lots 22 and 23 are proposed to be used for the expanded operation and pointed out the structures on Lot 22 that have stalls.

Mr. Rossi stated that the horse-boarding operation will be run by StonyCreek Corporation, and he noted that the subject properties are in Westchester County Agricultural District.#1. He went on to say that there will be commercial boarding/leasing of stalls, but no leasing of horses. Mr. Rossi said the usual special permit conditions will apply and be accepted by his client.

Mr. O'Leary questioned the capacity to board 25 horses.

Mr. Rossi responded that more stalls may be needed in the future, but there is room within existing buildings to construct them. He further explained that the equipment building has open bays that can easily be converted to stalls. Mr. Rossi stated that his client wants to maintain the right to have more buildings and paddocks in the future.

Peter Kamenstein addressed the Board, stating that if more horses are wanted in the future there are over 90 contiguous acres available, but he does not anticipate increasing the number of horses. He added that there will probably be just 18 horse initially.

Cynthia McKean said she is familiar with the property, remarking that there is plenty of room. She asked where the equipment would be moved to if the equipment storage building is converted to horse stalls.

Mr. Kamenstein replied that there are 4 to 5 large bays in an adjacent building, or the equipment could be kept under the hay tent.

Ms. McKean asked if a larger manure dumpster will be brought in/if the existing pad will be adequate.

Mr. Kamenstein said he thinks the existing dumpster will be good enough, but he could also put another one adjacent to the equipment area where it would be safe and out of the way.

Mr. Rossi concurred that the area would be good in terms of safety.

Mr. O'Leary noted for the record that the Board had received a letter from a neighboring property-owner (Cynthia Page, 189 Vail Lane) to which Mr. Rossi responded via e-mail.

Mr. Rossi stated that his response confirmed that special permits are always personal to property-owners and also confirmed the standard conditions. He said the neighbor asked for other restrictions which he said he could not agree to.

Mr. Reilly said the Board could not impose such conditions.

Mr. O'Leary asked about lighting.

Mr. Kamenstein said he would accept the same conditions imposed on others. He further stated that existing light fixtures are aimed downward and are not on all night/there are no spot lights.

Mr. Rossi added that there is no construction proposed at present.

There were no further comments, and Mr. O'Leary closed the public hearing.

Mr. Reilly read a draft resolution, noting the change of ownership and increased number of horses, the addition of a second property to be used for the horse-boarding operation, and the fact that no construction is proposed.

**Motion by:** *Cynthia McKean*  
**Seconded by:** *Emily Barrett*

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

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

**BA16-04** Rylan West Realty LLC (621 Route 22 and 8 Maple Avenue) – **Area Variance** – For renovations including demolition, construction of new structures and additions, creation of parking areas and installation of a free-standing sign in a GB zoning district, per Article V Section 250-15, Article VI Section 250-20, Article IX Section 250-40.1 and Column G of the GB and RO Use Tables. The following variances are requested:

- a. Allow parking within the west and east side yard setbacks.
- b. Allow a parking access-way less than 1 ft. from a residential district (15 ft. required).
- c. Decrease the minimum front yard setback from 35 ft. required to 4 ft. proposed and decrease the combined side yard setbacks from 50 ft. required to 44 ft. proposed for construction of a 2-story retail/office building.
- d. Decrease the minimum rear yard setback from 50 ft. required to 8 ft. proposed for construction of a service/storage building.
- e. Decrease the minimum side yard setback from 20 ft. required to 5 ft. proposed and decrease the rear yard setback from 50 ft. required to 8 ft. proposed for enlargement of a storage shed.
- f. Increase the maximum size of a free-standing sign from 8 sq. ft. permitted to 10 sq. ft. proposed.

Don Rossi (attorney), Eric and Evelyn Ryzerski (owners) and Ed Delaney (engineer) were present.

Mr. Rossi stated that SEQRA, usually determined by the Planning Board, was to be undertaken by the ZBA as part of an uncoordinated review. He explained that the Board would make its own determination re adverse impacts, etc. and have a resolution to that effect.

Commenting that Ms. Barrett is new to the Board of Appeals, Mr. Rossi brought her up to date about the Board's approval of a change in use to mixed retail/office and tradesman uses on the former Lakeland Lumber property. He explained that Rylan West Realty is now before the Planning Board for site plan approval, and they have made a positive referral to the Board of Appeals for the variances requested in the application.

Mr. Rossi stated that the existing site is almost entirely developed, but the applicants have a design for new/altered buildings, access and parking that will all be improvements.

Ed Delaney stated that the whole lot is currently impervious; drainage work, traffic plans, signs, lighting, etc. all need to be approved. He commented that the buildings are all close to the property lines. Noting that landscaping will be employed at the front to discourage parking there, he explained that there will only be parking permitted at the rear, including handicapped parking spaces and a contractor's yard to be delineated/separated by a fence. Drainage (including planters and sediment-traps) will be managed on-site/not flow outward and landscaping put in where possible. Mr. Delaney said that fencing on one section of the east side of the property will be a stockade-type requested by the adjoining neighbor.

Mr. Rossi stated that the combined side yard setback variance requested for the front building (Building A) will not be needed. He explained that the right side setback had been miscalculated but will actually be at least the required 20 ft./the combined side yard setback also meets zoning requirements. He described the appearance of Building A which will be constructed on the existing building's footprint. He added that a NYS Department of Transportation permit will be required for the grassed area to be put in at the front of the property.

Mr. O'Leary asked Mr. Rossi to explain about the parking.

Mr. Rossi said the rear right pan handle of the property (toward Maple Avenue) will be a parking area that goes right to the property line. Additionally in order to make the access-way wide enough, it comes close to the property to the north. He indicated additional parking spaces on the west side that are also right at the property line.

Mr. O'Leary asked about the front yard setback variance for Building A, and Mr. Rossi replied that it is needed because the new structure will be taller, even though the setback will be the same.

Mr. Reilly said he thought he remembered from a Planning Board hearing he attended that some parking encroached on another property.

Mr. Rossi explained that the applicant was required by the Planning Board to show that more parking spaces could be added, so 2 are shown at the end of the Maple Avenue parking area on the outside of the proposed curb but within the subject property; there is no plan to use these 2 spaces.

Ms. McKean asked if anything separates/delineates the parking spaces on the west (railroad track) side, and a proposed wall was pointed out.

Mr. O'Leary asked if the front yard setback variance would be necessary, given that the bulk of the non-conformity will increase but not the footprint of the building.

Mr. Reilly stated that the Planning Board felt the variance was necessary, so the ZBA should consider it. He added that he disagreed that it was necessary, but the Board should proceed as though it were.

Mr. O'Leary stated that the ZBA's opinion for the past few years has been that variances are not necessary if an existing footprint is maintained/not increased.

Mr. Reilly agreed, remarking that it is in keeping with case law, although it has been interpreted differently by the Planning Board.

Mr. O'Leary inquired about the variance for the storage building (Building B), and Mr. Delaney answered that although the footprint will be the same, it will be new construction.

Ms. Barrett asked if any new construction will bring buildings closer to any property lines, and Mr. Delaney replied that it will not.

Mr. O'Leary asked about the side and rear variances for the shed (Building C).

Mr. Delaney said the situation is the same/new construction will have the same setbacks as the existing structure.

Mr. O'Leary asked to hear about the proposed sign.

Mr. Rossi said there are currently 2 large signs on the front of the building; there will be one new, smaller, free-standing sign on the right side.

Mr. Delaney explained that the existing right-side sign is in the DOT right-of-way; the new sign will be back on the subject property/meet the setback requirement.

Mr. Rossi said Mr. Ryzerski designed the sign.

Mr. Reilly asked if the Planning Board has seen the sign.

Mr. Rossi explained that they have not specifically commented on it yet. He added that the design is new, because the Planning Board did indicate that they would be agreeable to a 10 sq. ft. sign vs. the originally-proposed 20 sq. ft. He added that the applicant had a preliminary meeting with the Architectural Review Board.

Mr. O'Leary asked if the sign would include a directory.

Mr. Ryzerski said that was what he had wanted, but the Planning Board objected to the larger sign/the information would not fit on the smaller sign.

Mr. Delaney said there will be signs on the façade of the building for tenants in Building A; other directory information will be at the rear of the property.

Mr. Reilly asked if the sign variance is only for its size and not its location, and Mr. Rossi said that was correct.

Mr. Ryzerski said the façade signs meet Code requirements.

Mr. O'Leary asked if the lighting sources are concealed, and Mr. Rossi turned to the elevation drawing which include illustrations of shaded pendant-type light fixtures on the buildings.

Mr. Rossi reiterated that grass will be planted at the front to prevent parking, and Mr. Delaney added that there will also be planters employed.

Mr. Delaney noted that the DOT seems amenable to planting as opposed to an original plan to use planters and pavement. He went into further detail about storm water treatment and sediment control. He pointed out a rear entrance to Building A that is accessible via a ramp from the 2 handicapped parking spaces and also indicated a covered walkway on the west side of the building.

Mr. Delaney said that Building B will be used entirely for storage and will only have lights above the doors.

Mr. Ryzerski described the exterior of Building A and indicated brick along the lower front and part of the sides, then going to the roofline at the rear of the sides and on the rear building projection. Above the brick will be board-and-batten-look siding.

Mr. Delaney said the remaining building (Building C) will be parallel to the railroad tracks; a different color and texture will be employed to differentiate it (and Building B) from Building A.

Mr. Rossi added that these colors/textures are all part of a plan to make clear the separation between the building/areas accessed by the public and those strictly for the tradesman yard.

Mr. Delaney pointed out plantings and proposed pavement striping to help with the separation.

Mr. O'Leary asked if there is to be outdoor storage.

Mr. Rossi said there is; it will be secure and sufficiently screened.

Turning to the site plan, Mr. Ryzerski pointed out chain-link fencing and a 6 ft.-high wall around 2 sides of the outdoor storage area (also screening the dumpster area).

Ms. McKean asked if there wasn't previously a concern about the adjoining property to the right seeing down into the subject property.

Mr. Delaney stated that there is a large garage there/not someone's house. He added that the Planning Board seems to be fairly comfortable with the plan now; the remaining issue is "green" drainage. He said all runoff will be treated on-site.

Mr. Rossi commented that the improvements to the Maple Avenue side of the property will all be to the good, adding that there will be no access from Maple Avenue. He said he thinks the appearance of the new buildings will be compatible with the overall look of the

Croton Falls business district, and the change at the front to prevent parking will also be a significant improvement.

Mr. O'Leary asked what the Planning Board is still reviewing.

Mr. Rossi responded that there will be a final determination incorporating input from the Architectural Review Board about design elements. He remarked that the original proposal was for more of an industrial railyard look; because of the adjoining residential area, the Planning Board preferred a somewhat softer appearance. Mr. Rossi said that a lot of time had been spent on storm-water; although a full Storm-water Pollution Prevention Plan was not needed. An erosion and sediment control plan was required/provided, but the Town engineer wanted more filtration incorporated into the plan. A plan has been agreed to/simply needs to be drawn up for approval.

Mr. O'Leary recognized Brian Ivanhoe (Chairman), who had arrived late to the meeting.

Referring to the elevation drawings, Mr. Ivanhoe remarked that some show divided-light windows and others do not. He asked why divided-light windows would not be employed throughout/for example in the high windows on the rear of Building A.

Mr. Ryzerski replied that the lower window is quite large/might be difficult to put divides into. He also added that the original plan had a more contemporary look/some detail-changes might have been missed.

Mr. Ivanhoe commented that the plan is great and the elevations look good, but he thought if the divided-light windows could be replicated all over it would look even better.

Mr. Delaney stated that the small high windows are recessed by 20 ft.

Mr. Ivanhoe said divided lights would be good if it could be done easily enough.

Mr. O'Leary thought changing out the windows would be possible, and Mr. Ryzerski said he would be happy to look into it.

Mr. Ivanhoe asked if another kind of door/not aluminum-framed could be used on the front of the building, adding that glass-fronted doors often get filled with fliers, etc.

Mr. Ryzerski said the door leads to the offices; it is like others in Croton Falls and needs to be strong. He added that there are not a lot of choices available.

Mr. Ivanhoe said the door would be acceptable as proposed.

Nzingha Milanes of 11 Maple Avenue addressed the Board, stating her concern about traffic on Route 22 in relation to the school bus stop. She said there is no sign indicating the bus stop and she was worried about trucks getting into and out of the Railyard property/asked if signs will be installed.

Mr. Delaney pointed out that there was previously a lumberyard on the subject property; given the new use of the property, he envisions contractors arriving in the morning and then leaving; the retail outlet is limited. He said there are directional signs in the entryway and added that the Planning Board had asked to be shown how large trucks will manoeuvre in/out of the lot. Mr. Delaney did not think the future use of the property would make traffic or driving conditions in the area any worse.

Mr. Rossi stated that there will be a Planning Board public hearing on March 2 at which site design will be discussed in greater detail. He said traffic was a major consideration for the Planning Board; elimination of parking at the front will help, but the applicant can't control other traffic. He stated that the new sign in front will be on the right side facing traffic coming from the west/headed east, creating less of a distraction for drivers than the lumberyard's 2 large signs. Mr. Rossi went on to say that the design engineers were responsible for making sure there is enough room for trucks to make a right turn to get in and also to turn around on-site to leave without needing to back out of the lot onto Route 22, and the site has been designed to accommodate this.

Ms. Milanese said she would like to see a sign indicating the school bus stop.

Mr. Rossi said that would be for the State or maybe the Town to do something about. He added that the Railyard project would not create a hazardous condition.

Mr. Delaney said in the past cars parked at the front and trucks backed out of the lot onto Route 22; neither of these movements will occur in the future, so driving conditions will be safer.

Mr. Thompson said he has noted instances of applicants agreeing to whatever is requested by the Planning Board with regard to sizes of signs; then the day to install the sign arrives, and things don't fit on it. He commented that the Railyard sign doesn't have the address on it, which is a safety concern.

Mr. Ryzerski said Mr. Thompson had an out-of-date plan and showed him an updated drawing with the address on the sign.

Mr. Rossi said it was decided that the signs on the building would serve as a directory, freeing up space on the free-standing sign for the address.

Mr. O'Leary wondered if #621 could be put above "The Railyard" on the building façade.

Mr. Delaney said they needed to be concerned about sign-size, and Mr. Ryzerski commented that driving westward, one cannot see anything lower than the second floor on the building; it would not help to put #621 on the façade.

Mr. O'Leary asked if the address couldn't be put on the front porch railing, but Mr. Ryzerski pointed out that the free-standing sign (with address) would only be about 10 ft. away.

Mr. Ivanhoe thought the address should be posted somewhere else.

Mr. Ryzerski suggested that maybe a sign could be put on the left side so it can be seen from the trestle, but it was pointed out that that part of the building wouldn't be seen by motorists coming from the north.

Mr. Rossi thought it might help to put something on the left side.

Tom Christopher, owner of Lift Trucks Project at 3 East Cross Street, came forward to offer his support for the Railyard. Mr. Christopher thought the plans shown were beautiful and respectful of the neighborhood, and he said he looked forward to the opening of the business.

Mr. O'Leary asked how people find Lift Trucks.

Mr. Christopher replied that it is hard; people will need to be able to find the Railyard more than his building.

Mr. Ryzerski remarked that he hopes people will become familiar with the Railyard name. He added that with increased use of cell phones/GPS information to find places, he feels posted addresses are less important than they used to be.

Greg Babon of 2 Maple Avenue asked if there is some kind of rodent management planned for the demolition. He said he was concerned because when a small local factory was demolished years ago, the neighborhood was overrun with rats.

Mr. Ryzerski said there is nothing for rodents to eat, and he has not seen any. He also offered to put down poison now to cut down on any rodent population.

Mr. Ivanhoe commented that there will always be some rodents sheltering in such a situation.

Mr. Ryzerski said there are not many places to hide on the site, but he will put down poison.

Mr. Thompson thought the clean-up work Mr. Ryzerski has been doing has probably disturbed some rodents and also decreased possible nesting places..

Mr. Babon asked if the second story on Building A required a variance.

Mr. Thompson explained that it does not because the building will not exceed the maximum permitted building height, and it will be constructed on the footprint of the existing building.

Mr. Ryzerski remarked that Mr. Babon's property on Maple Avenue is at a higher elevation than the Railyard; he offered to look into additional landscaping, although there is not much room to work in.

Mr. Babon was concerned that his view would be of a big building and its roof.

Mr. Ryzerski responded that his building will really not be much closer to Mr. Babon's property than a residential neighbor would be. He added that there will not be many lights on at night/no one looking out the window at Mr. Babon.

Ms. Milanese asked if there will be nighttime business hours.

Mr. Ryzerski said the second floor, except for his office, is unoccupied; he might occasionally be there alone at night doing paper work.

Ms. Milanese asked about the contractors' hours.

Mr. Ryzerski said that contractors typically start work early in the morning and quit by 4 or 5 pm; the acupuncturist and other retailers may have some evening hours, but they will be on the first floor.

To clarify a point for Mr. Babon about variances for the front building, Mr. Rossi stated that even though the ZBA feels it is unnecessary, the Planning Board recommended requesting a variance for the second story of Building (A), so he would ask that that variance be granted.

There were no further questions or comments.

Mr. Reilly explained to the Board that before closing the public hearing, the SEQRA resolution should be worked out/voted on. He stated that the Planning Board usually declares itself to be the Lead Agency and circulates the application to other involved agencies, including the Board of Appeals. In this case they did not do that/there will be 2 SEQRA determinations; one by the ZBA and one by the Planning Board.

Mr. Reilly asked the Board Members to look at the application and short EAF (*Environmental Assessment Form*), and make a determination as to whether or not the proposal will cause any substantial detrimental impact on the environment. He directed their attention to #2 on the short EAF which names the other agencies whose approval will be required (Planning Board, NYSDOT, WCDOH).

Mr. Reilly said he did not understand #9 (*"Does the proposed action meet or exceed state energy code requirements?" "Yes" is checked off.*)

Mr. Delaney said the proposed project must meet standards, and it meets all of them.

Mr. Reilly asked about #17 (*asks if storm water discharge will be created, if it will flow to adjacent properties and if it will be directed to conveyance systems. "Yes" is checked for all 3 questions.*) He said he had been of the impression that the applicant had resolved points raised by the Town Engineer with regard to storm water discharge.

Mr. Delaney said they will be resolved, adding that the conveyance system is on the DOT property.

Mr. Reilly stated that Mr. O'Leary should entertain a motion that there will be no negative environmental impact and make a determination of a Negative Declaration, which will be a separate resolution from that regarding the area variances requested.

**Motion by:** *Cynthia McKean*  
**Seconded by:** *Emily Barrett*

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

***Negative Declaration determined, as requested.***

Mr. Reilly stated that this was the point at which to close the public hearing, and he read a draft resolution for the area variances. He said the Board should understand that the Planning Board has reviewed the proposal in depth; and in their referral dated January 26, 2016, they recommend the granting of all the variances requested. The variance resolution will note the ZBA's Negative Declaration re SEQRA.

Mr. Reilly noted that a correct re-measurement of the combined side yard setbacks for Building A determined that the requested combined side yard setback variance is not necessary/the building will meet requirements. He stated that the applicant accepts a Condition that he will attempt to create more consistency in the appearance of the normal-to-large size windows on Building A (to look like the divided-light type windows on the front of the building, as shown on the south side elevation/ Drawing No. A-2), not including the 3 small, high, deeply-recessed windows shown on the north side elevation/Drawing No. A-3.

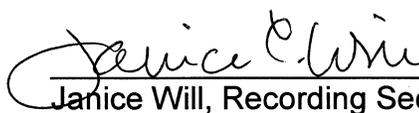
Mr. Reilly enumerated all the individual variances requested and stated a Condition that all construction must be per the submitted revised plans dated January 27, 2016 (elevation drawings dated October 14, 2015).

**Motion by:** *Cynthia McKean*  
**Seconded by:** *Emily Barrett*

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

The meeting was adjourned at approximately 9:10 pm.

Respectfully submitted,

  
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Janice Will, Recording Secretary