

**BOARD of APPEALS**  
**Public Hearing**  
**July 14, 2016**  
**7:30 p.m., Town Meeting Hall**

**MEMBERS PRESENT:** Richard O'Leary, Acting Chairman  
Cynthia McKean  
Emily Barrett  
Nzingha Milanes

**MEMBER ABSENT:** Brian Ivanhoe, Chairman

**OTHERS PRESENT:** Gerald Reilly, Counsellor  
Paul Taft, Assistant Building Inspector  
Janice Will, Recording Secretary  
Members of the Public

***Acting Chairman Richard O'Leary called the July 14, 2016 Town of North Salem Zoning Board of Appeals meeting to order.***

The next meeting date was set for August 11, 2016.

The minutes of the June 9, 2016 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:**

**BA16-21** John Chaffee (731 Titicus Road) – **Area Variance** – For the legalization of an as-built storage shed, per Article V Section 250-15. A front yard setback variance of 33 ft. is requested (75 ft. required; 42 ft. existing).

William Maynard, contractor, was present for the applicant. He stated that the shed has been on the subject property for approximately 30 years and matches the style of the house. He went on to say that the shed is a little farther from the front property line than the house; when it was built, his client was unaware of any setback requirements.

Mr. O’Leary noted there were no questions or comments and closed the public hearing.

Gerald Reilly read a draft resolution, noting that the shed has been on the property for many years.

Mr. O’Leary asked that a condition be included that any exterior lighting may not be visible at its source.

Mr. Maynard said there is no electricity supplied to the shed.

Mr. Reilly said the condition requested by Mr. O’Leary would be included; it will apply to future uses of the shed.

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

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

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

**BA16-22** Croton Falls Fire District (301 Titicus Road) – **Area Variance** - For the legalization of an as-built accessory structure, per Article V Section 250-15. A side yard setback variance of 5ft. is requested (20 ft. required; 15 ft. existing).

Chris Caralyus of American Design Consultants addressed the Board, stating that the structure is a “hot-dog shack” constructed 10 to 12 years ago. He pointed out that the corner of the shed is 15.3 ft. from the side yard line; no one realized it was that close when

it was built. The Fire Department is now applying for a variance to legalize the hot-dog shack.

Mr. O'Leary asked if the hot-dog shack was constructed at approximately the same time as the renovations to the firehouse, and Mr. Caralyus replied that it was.

Nzingha Milanés asked if the shack is only used by the Fire Department volunteers.

Mr. Caralyus said Ms. Milanés was essentially correct; it was used to serve refreshments at the September 11 ceremony and it is used during baseball games.

Mr. O'Leary said it is used for Town events, and hot dogs, ice cream and soft drinks are offered.

Mr. Caralyus added that it is not open to the general public or rented out for others to use.

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

Mr. Reilly read a draft resolution, noting that the hot-dog shack is used by Fire Department members and for Town civic groups/events.

Mr. O'Leary asked that a finding be included that the hot-dog shack was constructed at the time of the firehouse renovation.

**Motion by:** *Nzingha Milanés*  
**Seconded by:** *Emily Barrett*

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

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

**BA16-23** Fred Markey (353 Hardscrabble Road) – **Area Variance** – To decrease the minimum side yard setback in an R-4 zoning district per Article V Section 250-15 and Article VI Section 250-20. A setback variance of 63 ft. (75 ft. required; 12 ft. existing) to allow 3 storage buildings to remain as constructed and continued use of a parking area within the side yard are requested.

Fred Markey stated that he has been with Christe Pools since 1985. He said he left the area briefly when the subject property was for sale, purchasing property in Brewster for the pool business. Mr. Markey said he was approached by a party interested in buying the Brewster property for significantly more than he had paid for it; he accepted the offer and is now in contract to purchase 353 Hardscrabble Road. Mr. Markey said it was his understanding that the Town will permit the continued use of the property for the pool business. He added that he had been unaware that no Building Permits or Certificates of Occupancy had ever been issued for the storage containers when they were installed in

1990 or 1992 as he was an employee of Christe Pools at the time; he took over the company in 1999. Mr. Markey stated that he wants to legalize the containers now because they are important to the business for dry storage. He said he included a site plan in his application to show the location of the buildings and also the employee parking area (also used for company trucks and trailers when not on-site at a job).

Mr. Reilly noted that 353 Hardscrabble is the property owned by Christine and Michael Fitzgerald and that Mr. Markey was present when the Fitzgeralds were granted an appeal by the Board in December of 2015 in order to allow use of the property for the pool business. He said the December 15 resolution will be referred to in Mr. Markey's variance resolution, and he read the final paragraph of BA15-27:

**"NOW, THEREFORE, BE IT RESOLVED,** that, based upon the testimony and materials presented to this Board at the aforementioned hearings, the opinion of the Town of North Salem Building Inspector dated 10/27/15 is modified by deleting so much of the final decretal sentence which states: "...so long as it does not go beyond the footprint of the building..." this modification is based upon and confirms the Board's Findings (Paragraphs 1-15, supra); as so modified, the 10/27/15 opinion is confirmed. "

Mr. Reilly noted that the Board found in 2015 that the storage buildings did not have the Certificates of Occupancy required for their use and that their use (and also parking) for the pool business is a legal use. He said he thought the area variance application was to legalize the storage buildings and also to allow use of the parking area.

Ms. McKean said she recalled part of the November/December 2015 discussion having to do with limiting expansion of the business use of the property.

Mr. Reilly said the Board determined that only the non-conforming pool business was approved by the Board.

Ms. Barrett asked if there have been any changes to the property since BA15-27 was granted, and Mr. Markey replied there have not.

Paul Taft stated that the containers have a roof over them; Mr. Markey intends to remove an overhang at the rear of the containers.

Mr. Reilly said the site plan by T. Markey, dated June 26, 2016, will be cited in the resolution; it will be helpful to the Building Inspector in determining what the Board has approved. Mr. Reilly will also note in the resolution that the overhang at the rear of the containers is to be removed.

Ms. Barrett asked if there have been any objections by any neighbors, and Mr. Markey said there have not.

Ms. McKean asked how long the business has been in operation.

Mr. Markey said he thought Thomas Christe started it in 1983; he went to work for Mr. Christe in 1984, and the containers were acquired in/around 1990.

Mr. Reilly described a letter from the former Building Inspector, Bruce Thompson, dated October 27, 2015, which describes the historical use of the subject property and which the Board approved with the removal of one aspect of it (*limiting use by the pool business to one building on the subject property*).

Mr. O'Leary remembered the discussion of the letter, and he said the Board also agreed that any commercial use of the property other than the pool business would require application for a use variance.

Mr. Markey said he understood this.

Noting there were no further questions or comments, Mr. O'Leary closed the public hearing.

Mr. Reilly read a draft resolution, citing BA15-27, the site plan dated June 26, 2016, and the Building Inspector's letter dated October 26, 2015 which describes the long-time use of the property for the pool business. Mr. Reilly noted that there were no objections to the application and none to BA15-27, and also that the property has been used continuously for over 35 years for the pool business which is the only permitted non-conforming use of the property.

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

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

**Area variance granted, as requested.**

The hearing was adjourned at approximately 8 pm.

Respectfully submitted,

  
Janice Will, Recording Secretary