

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

MEMBERS PRESENT: Cynthia McKean
Emily Barrett
Brian Ivanhoe, Chairman

MEMBERS ABSENT: Nzingha Milanes
Richard O'Leary

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

Chairman Brian Ivanhoe called the August 11, 2016 Town of North Salem Zoning Board of Appeals meeting to order.

The minutes of the July 14, 2016 meeting were unanimously approved.

The next meeting date was eventually set for September 15, 2016, a change from the scheduled meeting date of September 8, 2016.

The Chairman announced that as only 3 Board members were present, a unanimous decision would be required for all applications. He explained that anyone who would rather have their application held over until September in hopes of being heard by a full Board could do so at no additional cost to them.

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:

BA16-24 Oldvineyard LLC (441 Hardscrabble Road) – **Special Permit** – For the operation of a breeding farm for up to 150 alpaca, per Article XIII Section 250-72.

BA16-25 Oldvineyard LLC (441 Hardscrabble Road) – **Area Variance** – For the keeping of up to 150 alpaca (25 permitted), per Article IV Section 250-11.

BA16-26 Newvineyard LLC (39 Delancey Road) - **Special Permit** – For the operation of a breeding farm for up to 150 alpaca, per Article XIII Section 250-72.

BA16-27 Newvineyard LLC (39 Delancey Road) - For the keeping of up to 150 alpaca (25 permitted), per Article IV Section 250-11.

The Board would consider these applications all together.

Michael Liguori, attorney, was present. Mr. Liguori stated that his clients are Lynn and Wes Edens who are also the principals of Little Creek Alpaca and Red Horse Farm. The Edenses were applying for the special permits and area variances in order to expand the alpaca operation onto the subject properties (up to 150 alpaca on each lot), with the animals kept separately on the lots/no migration from one to the other.

Mr. Liguori explained that 441 Hardscrabble Road consists of about 160 acres and was formerly the North Salem Vineyard; 39 Delancey Road consists of 100 acres on which there is a cell tower and a running track. He said there are few structures required as keeping alpaca is quite different from the keeping of horses, and there will also be fewer vehicles travelling in and out of the properties (about 30 trips a day at each property). Mr. Liguori added that alpaca require little medical care, and of course there is no riding; the operations will be purely for breeding, wool and sales. He offered to take questions from the Board.

Chairman Ivanhoe said the information provided was detailed and clear, demonstrating that the intensity of use by an alpaca herd would be less than that of even fewer horses. Noting that there will be a maximum of 300 alpaca between the properties, the Chairman asked how many alpaca the applicants currently have.

Mr. Liguori responded that there are 100 at Red Horse Farm and he thought there were fewer than 50 at Little Creek Farm (*up to 30, per BA10-56*).

The Chairman asked what the total pasture acreage will be on the subject properties.

Mr. Liguori answered that it will be approximately 60 acres on each, and other parts will probably be used to grow hay. He added that the map submitted with the applications is the same one submitted to the County for admission to the Agricultural District and commented that no special permit is required for hay farming.

The Chairman asked if the land closest to Hardscrabble Road will be used for hay or pasture.

Mr. Liguori was not sure, but he thought the interior areas would be pasture. He explained that his clients will probably put 1 agricultural structure on each lot, and having them in the interior will screen them from view.

Lynn Edens arrived at the hearing at this time.

Chairman Ivanhoe said they had been discussing the use of interior areas for pasture and the Hardscrabble Road-side fields for hay.

Ms. Edens said those fields are being hayed already. She stated there are 66+ acres of grass already at 441 Hardscrabble, so no additional clearing will be necessary other than field renovation.

The Chairman commented that there appears to be plenty of room, and Ms. Edens agreed, adding that there will be hay left to take and sell/the alpaca will not be able to eat all of it.

Chairman Ivanhoe remarked that there are bridle paths through the subject properties and asked what Ms. Edens thought about keeping them open.

Ms. Edens said she will keep them open, having arranged to do so last year. She said some of the trails were renovated; on the lower property she put in some fencing but left lanes open for the hunt.

Ms. McKean asked how many structures and how much help Ms. Edens will need for the alpaca.

Ms. Edens said the land is well-suited to this kind of livestock operation. She will only need 2 buildings, and she will probably get Clear Span membrane structures that look like greenhouses. She explained that there are locations on both lots that are central in terms of being able to route the alpaca to grazing and where the structures will not be visible from off-site. Ms. Edens said she did not anticipate needing to increase her existing staff.

Ms. McKean asked about manure removal.

Ms. Edens said it may be sold or traded for dumpster removal.

Chairman Ivanhoe asked if the manure is sold as-is or composted, and Ms. Edens replied that it is sold to people who do the composting themselves, although it does not need to be composted.

Ms. McKean asked where the manure dumpsters will be located.

Ms. Edens said they will be near an existing, renovated barn. She said other, old structures are being removed, including a non-conforming garage that will be rebuilt behind the barn and in compliance with the Zoning Ordinance; this configuration should create an appropriate location for a dumpster site. Ms. Edens went on to say that she has had good experiences working with the Watershed Agricultural Council and will call on them again.

The Chairman said the resolutions will state that all buildings are/will be Zoning compliant.

Gerald Reilly added that the area variances may contain a condition that all existing and any future structures and the manure dumpsters must comply with Zoning.

Chairman Ivanhoe said the Board had recently seen a good composting system that Ms. Edens might like to consider.

She said she would like to consider it in the future, but it just isn't part of her current plan.

The Chairman called on Trudy Gessler of 9 Delancey Road. Ms. Gessler asked to be shown where the alpaca pastures, buildings and dumpsters will be located.

Ms. Edens indicated areas in the interior of the lots where she said the membrane structures will be hidden from view by a rise and said one might see grazing alpaca.

Ms. Gessler said she was concerned about use of a low, southern hill that abuts her property from which there had been run-off problems in the past.

Ms. Edens said that field will probably be better used for haying, not that alpaca chew grass right down to the ground. She said the field has been renovated, but in an extreme dry spell, any kind of hill is subject to run-off. She pointed out that the field abutting the Gessler property is separated from those to the north of it by the cell tower road which must be kept open, so it is really not appropriate for animals.

Margaret Clark of 7 Delancey Road asked if there have been any complaints about Ms. Edens' current alpaca operations with regard to noise, odor or other disturbance.

Ms. Edens said there was one issue at Red Horse Farm when there were complaints about the guardian dogs barking at night. She said it is always important to her to preserve the happiness of her neighbors. When efforts to quiet them failed, she relocated the dogs and now has llamas to guard the alpaca/keep coyotes away. Ms. Edens said she has never had any other complaints.

Ms. McKean asked how many llamas would be needed to protect 150 alpaca.

Ms. Edens said it is more a matter of how many fields are used than of how many alpaca there are; 1-2 llamas per field is enough. She added that she also has some electrified wire fencing which is usually enough to deter coyotes.

Chairman Ivanhoe asked if Ms. Edens has ever lost an alpaca to coyotes.

Ms. Edens replied that she has not. She said alpacas are outside most of the time and more vulnerable to predation than horses, but it is fairly easy to manage. She stated that if there is ever an issue with how things are run, she seeks to solve it in a way that satisfies her neighbors, because that is conducive to her long-term success.

Ms. Gessler asked how the subject properties could be used in the future once a special permit has been granted for the alpaca operation.

The Chairman replied that it could certainly be used for other agricultural purposes. He also explained that the special permit will expire in 10 years/need to be renewed then, and it will also expire upon sale of the property; a new owner would have to apply for a new special permit. He stated that both of these instances are opportunities for the Board to regulate these kinds of uses.

Ms. Gessler stated that her Notice to Property-Owners was addressed to 9 Delancey Road and not to her Post Office box; she would not have had time to send a written objection to the Board if she wanted to, because she only received it the day before the meeting.

Michael Liguori said the Notice was mailed to both the street address and Ms. Gessler's Post Office box, so he was surprised that only one was received and it was late.

Ms. Gessler said the one she got was at the Post Office but had been held separately to be picked up/was not in her PO box.

Mr. Reilly said the law only requires that Notices be addressed to the correct name. He told Ms. Gessler that any change to the property will require a return to the Board and she will receive another Notice.

Klaus Gessler seemed concern that the property will now be able to have 150 of other kinds of animals.

The Chairman said the special permit is specific to alpaca. He added that the Board considers each special permit application separately/on its own merit, and horses, cattle or chickens would be looked at differently.

Paul Taft asked to return to the subject of complaints and said there have been none about any of Ms. Edens' properties. He went on to say that annual fire safety inspections are conducted, and Ms. Edens has always been quick to address any issues that arise.

Ms. Clark said she respected what Mr. Taft said and also Ms. Edens herself, but she would like to see a "tight" resolution containing restrictions in anticipation of possible problems.

Mr. Reilly said the resolutions will be limited (if the applications are approved); they will state that the special permit will expire in 10 years or upon transfer of ownership of the properties. He added that if the applicants wish to change the type or number of animal, they will have to return to the Board. Mr. Reilly suggested that, for the variance, the Board require the applicants to file a specific site plan re location of any buildings and manure dumpsters to show they are in compliance with the Zoning Code; any deviation will require a return to the Board, and any violation will be dealt with by the Building Inspector.

John O'Meara, also of 7 Delancey Road, asked if the alpaca ever get loose, commenting that he has had cows in his yard.

Ms. Edens said her alpaca do not get loose.

Mr. O'Meara asked if he could visit her existing alpaca operation, and Ms. Edens said that would be fine.

Mr. O'Meara thought this would give him an idea of what to expect.

Ms. Edens said it would only provide some of an idea, because the current operation moved into an existing farm/utilizes buildings that were already there.

Mr. O'Meara said he heard Ms. Edens say the alpaca herd will not be on the field that slopes toward the Gessler property, but he wanted to know if there will be something in writing to that effect.

Mr. Reilly stated that it was a dilemma that no site plan was included in the applications; the Board of Appeals usually sees one delineating structures, etc. before granting approval of an application.

The Chairman thought Mr. O'Meara wanted to know which pastures will be used; in the past when neighbors have expressed concerns, the Board has sometimes specified how land may be used. He asked Ms. Edens if she would consider having that lower field specified not to be used for pasture/only used for hay or other crops.

Ms. Edens said she would not want the field to be completely off-limits/not used, but she would be satisfied with permission to use it for hay.

Mr. O'Meara said he thought the neighbors would all be agreeable to that, but the applications said nothing about fields to be used for hay/only described keeping of 150 alpaca.

Chairman Ivanhoe thought this discussion was a good example of how the application process works. He said that sometimes applications are held over for site visits, although he did not think that would be necessary in this instance; if Ms. Edens was agreeable to a

specification that the sloping lower field to the south may not be used for pasture/animals, that should be sufficient to close the public hearing.

Ms. Edens said that as a practical consideration, it would be a more difficult field to use for pasturing; to limit the amount of labor required, a more central location for all the animals will be better. She stated that for that reason and due to the concerns of the neighbors, she would be happy to reserve that field for hay or other crop use only.

Mr. Reilly stated that this may be included as a condition in the resolution, because there is an application for a variance, despite the properties' presence in the Agricultural District.

The Chairman thought he would close the public hearing.

Mr. Reilly said he would prefer it if the Board would vote, and then he will meet with the secretary later on to work up the individual resolutions. He wanted the Board to consider a condition which the applicants would be required to comply with that a drawing be submitted which depicts the 2 structures, perhaps shades the field to be limited to crop use, and also shows the dumpsters or compost system. He explained that unless there is a site plan filed in the Building Department, there is always room to argue about where things may be. Mr. Reilly wondered if the Board thought the applicant should be required to do this, adding that he did not know how long this would take.

Ms. Edens said she would like to suggest not; she had not supplied that information in her applications to the Board, because she thought it was a process to go through with the Building Department.

Mr. Reilly said applications for the keeping of horses always include site plans depicting locations of buildings, dumpsters, etc.

Chairman Ivanhoe asked if the applications state that no changes to the properties were proposed.

Mr. Liguori stated that the applications describe future plans to put one structure on each of the 2 lots, in compliance with Zoning requirements.

The Chairman said when nothing is proposed initially, applicants normally come back to the Board when they have specific plans re buildings. He remarked that it was a little trickier to deal with applications that are not specific about future structures, so he thought the resolutions would state that all future buildings must be compliant with the Zoning Ordinance. Then he thought again and said that if future structures are within anyone's viewshed, the Board would like to know what they will look like before approving them.

Ms. Edens explained that she had been trying to leave more leeway by not specifying locations; she had not wanted to incur the expense of doing a specific site plan if there was a chance the number of alpaca would not be approved.

Chairman Ivanhoe stated that in order to vote on the applications as submitted, he would ask that Ms. Edens return to the Board when she has specific building plans. He added that the membrane structures will probably not be visible from the road.

Ms. Edens said she has a lot of flexibility in terms of placing the buildings so they may not be seen.

Ms. Barrett asked if Ms. Edens would be required to return to the Board even if the buildings do not require area variances, and Mr. Reilly replied that she will, so that the Board can see the specifics of the plan/check building and dumpster locations for Zoning compliance.

The Chairman added that Ms. Edens' return will be to amend the special permits.

Mr. Reilly said the 10-year term of the special permit will run from this date and not the date of the amended special permit.

Ms. Clark asked if the pasture restriction will be part of the special permit amendment.

The Chairman said that would be dealt with this evening, and it will be indicated on the site plan to be submitted in the future as well.

There were no further questions or comments, and the Chairman closed the public hearing, noting that the resolutions had been discussed already.

Mr. Reilly stated that the applications were for 2 special permits and 2 area variances, one of each for 2 properties. Regarding the area variances, he said the subject properties are in the Ag District, and the breeding of alpaca is an agricultural use. Although the Zoning Ordinance limits the keeping of fur-bearing animals to 25, horses are permitted in greater numbers based on acreage. Mr. Reilly noted that the applicant agreed to submit a site plan indicating placement of buildings and dumpsters and also regarding field usage. There is no alternative because the application is *sui generis*, and it has been stated by the applicant that the keeping of alpaca is far less intrusive than the keeping of other kinds of livestock.

Mr. Reilly noted the following conditions: the Newvineyard LLC field to the south of the cell tower access road may be used for crops but not animals; the applicant will return to the Board for amended special permits at such time as there is a site plan indicating that 2 structures and any dumpsters are situated such that they are in compliance with the Zoning Ordinance.

Regarding special permit applications BA16-24 and BA16-26 –

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

Ms. McKean: *Aye*
Ms. Barrett: *Aye*
Chairman: *Aye*

Special permits granted.

Regarding area variance applications BA16-25 and BA16-27 –

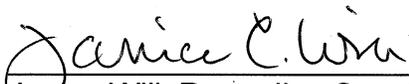
Motion by: Emily Barrett
Seconded by: Cynthia McKean

Ms. McKean: Aye
Ms. Barrett: Aye
Chairman: Aye

Area variances granted.

The Chairman closed the meeting at approximately 8:25 pm.

Respectfully submitted,


Janice Will, Recording Secretary