

Town of Halfmoon Zoning Board of Appeals
Meeting – Monday, February 4, 2016
7:00 PM

Chairman Rose called the meeting to order at 7:06 PM on Monday, January 4, 2016 at the Halfmoon Town Hall with the following members present:

Members - Vice-Chairman Tedrow, Mr. Hansen, Mr. Burdyl and Mr. Brennan (Absent)
Alternate Member - Mrs. Curto
Director of Planning- Mr. Harris
Planner - Mr. Marlow
Town Attorney - Mrs. Cathy Drobny & Mrs. Lyn Murphy

Motion made by Mr. Hansen and seconded by Mr. Burdyl that the minutes of January 4, 2016 be approved as presented. Motion was carried unanimously.

Chairman Rose reoriented the agenda to allow old agenda items to be heard prior to the Public Hearings.

Public Hearing

RCC Enterprises DBA Maple Leaf Childcare Inc., 41 Werner Road- Use Variance (SBL# 272-4-71.11)

Tom Savino and David Ross presented the application and explained that since the last meeting they have filed for an expansion of a pre-existing/non-conforming use rather than a Use Variance.

Lyn Murphy clarified that there are three options that the Board has, that is to determine no variance is required; approve or deny an expansion of a pre-existing/non-conforming use to allow for more students than previously approved; or approve or deny the initial use variance.

Chairman Rose and Mr. Hansen asked questions of the Town Attorney what would be the procedure if it was determined that no variance was required. Lyn Murphy stated that the Zoning Board of Appeals and Planning Boards are separate Board's and the applicant would continue forward with their application if the ZBA felt no variance was required.

Chairman Rose asked what the tests were to determine if something should be granted an expansion of a pre-existing/non-conforming use; Lyn Murphy clarified that the Town does not have set tests to determine this.

David Ross explained the history of the past uses of the site and explained that the proposed use would be an aggregate reduction in number of students from the prior tenant. He also explained his financial hardship and explained that he is selling the property for about 30% of his initial listing price two years ago.

Lyn Murphy clarified why the Planning Board felt a variance was required. She stated that the previously approved school was an approved use, but the daycare was not and as such is a pre-

existing/non-conforming use. The increase in number of students would require the expansion of a pre-existing/non-conforming use.

George Hansen stated that he felt an expansion of a pre-existing/non-conforming use is the best fit for this application as it may not meet all the tests for a Use Variance.

Chairman Rose cited section 165-66, the expansion of a pre-existing/non-conforming use.

Mr. Hansen made a motion to approve the expansion of a pre-existing/non-conforming use, seconded by Mr. Burdyl. Motion was carried.

Spare Lots, Route 146- Area Variance (SBL# 272.-4-45, 272.-4-46, 272.-4-47, 272.-4-48)

Chairman Rose asked for clarification on the setback along Route 146 and whether or not this project should be required to meeting the overlay district requirements. Rich Harris explained that the lot does not meet the required depth to require the overlay district setbacks.

Jason Dell, Lansing Engineering, presented the application for a front yard setback and parking space size variance. They are seeking approval from the Planning Board to construct an 18,000 SF office building. As a result of the proposed construction they would be required a front yard variance, as the proposed front yard setback is 10 feet and they are required 50 foot, requiring a 40 foot variance. In addition parking spaces are required to be 10'x 20', with Planning Board discretion to allow 9' x 20' spaces for employee parking. The plan shows 33 of the 91 proposed parking spaces with the dimensions of 10'x 18'. Therefore, a variance in parking space size for the 10' x 18' spaces is required. He explained that the building could not be located closer to the stream due to the fact that in order to fit the road behind the building and maintain the proper grade to the stream this was as close as they could locate the building.

George Hansen asked how the Planning Board felt about the smaller parking spaces. Paul Marlow explained that the Planning Board prefers that parking spaces meet Town standards but has in the past approved spaces smaller than required by Town Code for employee parking.

George Hansen asked for the percentage of spaces that did not meet Town Code; Jason Dell explained that approximately 50% of the spaces were smaller than Town Code.

George Hansen questioned if projects like this in the future should be viewed by the Planning Board first in order to get initial comments from them. Rich Harris explained that in 2014 the Town Board gave the ability to the Planning Board to have flexibility with parking requirements for businesses. In addition he explained that in the past the Planning Board has not wanted to view applications knowing that variances would be required as any variances granted or not granted could potentially effect the application before the Planning Board.

Rich Harris and Daphne Jordan explained that by granting the Zoning Enforcement Officer the power to deny applications, it helps to streamline the applications and avoid getting set back due to timing of meetings and gaps between Planning Board and Zoning Board of Appeals.

Chairman Rose asked how many spaces would be substandard, Jason Dell clarified that 48 spaces would be 10'x 18' in size and 43 would be 10'x 20' for a total of 91 spaces.

Chairman Rose asked if emergency services had reviewed this project; Paul Marlow clarified that the applicant has already met with the fire department and that the Planning Board will seek the fire departments input as part of the site plan review process.

Chairman Rose asked if the applicant has sought any other means of development for the property; Jason Dell explained that due to the size limitations and zoning of the site, other means of development are very limited.

Chairman Rose closed the Public Hearing closed at 7:51 PM, no one chose to speak.

There was a site visit on Saturday, January 31, 2016.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Burdyl commented: It will enhance the neighborhood ascetics and character of the neighborhood. Chairman Rose noted that it will result in an increase in traffic flow along Route 146.
- 2) Mr. Hansen commented: Due to the site limitations, there would be no other way to build a commercial building.
- 3) Chairman Rose commented: It is substantial, but the site is very limiting in terms of what can be built.
- 4) Mr. Curto commented: The prior use was residential and the proposed use is commercial so it will have a substantial impact.
- 5) Mr. Hansen commented: It is self-created due to the fact they chose to develop a smaller lot but it does meet the desired uses within that zoning district.

Mr. Burdyl made a motion to approve the Area Variance, seconded by Mr. Hansen; Ms. Curto-Nay Motion was carried.

Clifton Park Church of Christ, 7 Old Route 146- Area Variance (SBL# 272.10-1-21)

Mr. Gavin Vuillaume presented the proposed Area Variance. The applicant is seeking approval from the Planning Board to subdivide the existing 1.82 acre parcel into two separate lots. The lot as it sits contains the Clifton Park Church of Christ and a vacant office building; the Church would like to subdivide the lot in order to sell off the office building. As a result of the subdivision, the newly created lot which will contain the existing office building, will no longer be compliant as it will not meet today's lot requirements and requires several area variances. Mr. Vuillaume briefly went through the five tests of an area variance.

Mr. Burdyl asked if the paved area along the road would be removed and replaced with a vegetated buffer, Mr. Vuillaume validated that it would be replaced with a vegetated buffer along with several other improvements on the site.

Chairman Rose asked how long the property has been vacant; Mr. Vuillaume stated that it has been vacant for at least three years now.

John Rude stated that they have sought the option of an easement for parking but was advised by several realtors that an easement for parking would substantially affect the resale value of the property.

Chairman Rose clarified that the Church will not be using the vacant office building; John Rude concurred that the Church will not be utilizing the vacant building.

Chairman Rose closed the Public Hearing closed at 8:25 PM, no one chose to speak.

There was a site visit on Saturday, January 31, 2016.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Hansen commented: No it will not create an undesirable change on the neighborhood.
- 2) Mr. Hansen commented: There is no other alternative to subdivide the lots.
- 3) Mr. Hansen commented: It's not substantial; there are no other alternatives to address the proposed variances.
- 4) Mr. Burdyl commented: There will be no adverse impact, and will enhance the neighborhood.
- 5) Mr. Hansen commented: It was unintentionally self-created, when originally built they could not have seen the issues that would arise today.

Mr. Hansen made a motion to approve the Area Variance, seconded by Mr. Burdyl. Motion was carried.

Mr. Burdyl made a motion to adjourn the meeting, seconded by Mr. Hansen. Motion carried.

These are summary minutes and are not word for word at the request of the Zoning Board of Appeals. A copy of the recorded tape is available by F.O.I.L. through the Town Clerk.

Meeting adjourned at 8:30 PM.

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