

Town of Halfmoon Planning Board

April 11, 2011 Minutes

Those present at the April 11, 2011 Planning Board meeting were:

Planning Board Members: Steve Watts – Chairman
 Don Roberts – Vice Chairman
 Rich Berkowitz
 Marcel Nadeau
 Tom Ruchlicki
 John Higgins
 John Ouimet

Senior Planner: Jeff Williams

Town Attorney: Lyn Murphy

CHA Representative: Mike Bianchino

Mr. Watts opened the April 11, 2011 Planning Board Meeting at 7:02 pm. Mr. Watts asked the Planning Board Members if they had reviewed the March 28, 2011 Planning Board Minutes. Mr. Roberts made a motion to approve the March 28, 2011 Planning Board Minutes. Mr. Ruchlicki seconded. Motion carried. Mr. Nadeau abstained due to his absence from the March 28, 2011 Planning Board Meeting.

Public Hearing:

11.027 PH Pelo Subdivision, 109 Fellows Road – Minor Subdivision

Mr. Watts opened the Public Hearing at 7:02 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: I am here tonight representing Mr. Bruce Tanski for the subdivision of Lands of Henry Pelo. The parcel is located inbetween Route 146 and the northern section of Fellows Road. The parcel is directly across from where the new entrance to Fellows Road comes out. The request is to subdivide off a 3.5-acre parcel from the existing 24-acre parcel. Mr. Watts asked if anyone from the public wished to speak. Mr. Jerry Baker, of Fellows Road, asked if that was the section that was going to be next to the Sunoco station? Mr. Rabideau stated that is correct. Mr. Baker asked how many acres is that? Mr. Rabideau stated 3.5-acres. Mr. Watts closed the Public Hearing at 7:04 pm.

Mr. Nadeau made a motion to approve the minor subdivision application for the Pelo Subdivision. Mr. Higgins seconded. Motion carried.

New Business:

11.026 NB The Home Depot Seasonal Outdoor Sales, 4 Crossings Blvd. – Change of Use

Mr. John Gray, Manager of the Home Depot, stated the following: We are before the Board for our outdoor seasonal approval from April 1, 2011 to September 1, 2011. We would have storage of

mulch, soils and concrete block that would be kept in the designated areas on the side of building. Mr. Higgins asked if the rest of the site was in accordance with the approved site plan? Mr. Watts stated the following: Yes, we did have some issues at that site. Our Code Enforcement Officers went to the site and I believe they had to move some things inside. Mr. Gray stated yes, we had 5 pallets out on the front sidewalk that we used for selling space and at that time we were told that we couldn't use it until we received Planning Board approval. Mr. Higgins asked is the rear of the building also in accordance with the approved site plan? Mr. Gray stated yes and there were some other things that we had to move and all that was done. Mr. Watts stated Mr. Williams and Mrs. Zepko stated they were satisfied with the site. Mr. Berkowitz asked is there a lot of debris in the parking lot? Mr. Gray stated no, we have a sweeping contract with an outfit that comes in 3 times a week. Mr. Berkowitz stated is there some yellow tape around some of the areas in the parking lot? Mr. Gray stated yes, there are some blacktop issues and now that the weather is warmer we have requested those areas to be repaired. Mr. Berkowitz asked when is that going to be done. Mr. Gray stated probably within the next 3 to 4 weeks. Mr. Berkowitz asked how many spaces does that take up? Mr. Gray stated it's not in the parking spaces; it is located on the driving area. Mr. Williams stated the other outdoor seasonal businesses that came in asked for their closing day to be September 30th. Mr. Watts stated who did? Mr. Williams stated Wal-Mart and Lowe's. Mr. Watts stated we'll give you the extra time if you want it? Mr. Gray stated I will take it but I've never used it in the past. Mrs. Murphy asked did you say you would have the asphalt repaired within 4 weeks? Mr. Gray stated I know the request has been put in but I'm just waiting to hear back on when they are going to do it. Mrs. Murphy asked could you give us a date that you know it would be done by? Mr. Gray stated I couldn't give you an exact date but I could probably let you know tomorrow. Mrs. Murphy asked would 60 days be reasonable? Mr. Gray stated yes, 60 days would be reasonable. Mrs. Murphy stated please make your approval contingent upon the pavement being repaired.

Mr. Higgins made a motion to approve the change of use for The Home Depot's Seasonal Outside Storage condition on asphalt repairs being performed within 60 days of approval and the outdoor sales is valid from April 1, 2011 to September 30, 2011. Mr. Roberts seconded. Motion carried.

11.030 NB Global Green Insurance Agency (Crescent Commons), 1471 Route 9 – Change of Tenant

Mrs. Murphy recused herself from this item. Mr. Mike Klimkewicz, owner of Crescent Commons, stated the following: I am here on behalf of Mr. Faizy who is the owner of Global Green Insurance. This proposal is for an insurance company that represents 20 different companies. Mr. Faizy would have 3 employees that would utilize an 800 SF suite and they would require 4 parking spaces. Their hours of operation would be 9:00 am to 5:00 pm Monday through Friday and 9:00 am to 1:00 pm on Saturday. There would be no signage but they would be listed in the directory downstairs.

Mr. Roberts made a motion to approve the change of tenant application for Global Green Insurance Agency. Mr. Berkowitz seconded. Motion carried.

11.032 NB Emerson Process Management, 26 Corporate Drive – Change of Tenant & Sign

Mr. Lawrence Masker, who is representing Emerson Process Management, stated the following: Formerly we were Innovative Controls Systems. We were bought out by Emerson Electric and we are just looking to change the sign. Mr. Watts stated the following: So, it would be a name change for the company and then a change in the signage. It would be the same operation with the same people. Mr. Masker stated yes. Mr. Watts asked would you have 2 signs? Mr. Masker stated yes, we are looking to put one above our front door that was there previously and we would also put another

sign in the existing freestanding sign along the side of the road. Mr. Roberts stated I have reviewed the signage and they both conform to Town Code.

For the record: The Planning Department's write-up for the sign(s) is as follows:

Sign#1-Emerson Process - Freestanding

Proposed Sign Area: 42.4 SF

Proposed sign dimensions: 8 ft x 5.3 ft

Total Proposed Height: 6 ft

Sided: one-sided Two-sided

Location of Sign: at front of site

Lighted: Internal Flood – not lit

Sign#2-Emerson Process - On the Building

Proposed Sign Area: 5.3 SF

Proposed sign dimensions: 1.3 ft x 4 ft

Sided: one-sided Two-sided

Location of Sign: above the entrance

Lighted: Internal Flood – not lit

Mr. Roberts made a motion to approve the change of tenant application for Emerson Process Management. Mr. Ouimet seconded. Motion carried.

Mr. Roberts made a motion to approve the sign application for Emerson Process Management. Mr. Ouimet seconded. Motion carried.

11.033 NB Find Your Dreams/Webuildpages/Click Here Inc., 21 Corporate Drive – Change of Tenant

Mr. Tom Andress, of ABD Engineering & Surveying, stated the following: This is for the Abele Park that previously was the NFC building. The applicant wishes to utilize approximately 10,000 SF of office space. The proposal is to operate a website design and marketing firm. The business has three different names; Find Your Dreams/Webuildpages/Click Here Inc. Mr. Watts asked is this 3 separate corporate entities? Mr. Andress stated it has one owner and he has 3 separate entities that he does the work under. Mr. Higgins asked how many employees would this one site have? Mr. Andress stated there would be 139 employees for the total site right now for the area that is currently leased out. Mr. Higgins asked how many employees would this one business have? Mr. Andress stated this one business has 57 employees. Mr. Watts asked Mr. Williams if there was adequate parking available at that site? Mr. Williams stated yes.

Mr. Berkowitz made a motion to approve the change of tenant application for Find Your Dreams/Webuildpages/Click Here Inc. Mr. Higgins seconded. Motion carried.

11.035 NB Dunkin Donuts (Halfmoon Sunoco), 325 Route 146 – Sign

Mr. Bruce Tanski, the applicant, stated the following: The Dunkin Donuts sign would be located on the left side of the building as you are facing the building. The sign would be 10 FT long, 30 inches high and would be located three-quarters of the way up on the left-hand side the building. Mr. Watts asked Mr. Roberts if he reviewed the proposed signage. Mr. Roberts stated yes I did, and it does conform to the Town Code. Mr. Higgins asked is this site presently in conformance with the approved site plan? Mr. Tanski stated no it is not. Mr. Higgins stated there was some earlier

discussion about what would be needed to get the site into compliance. Mr. Tanski stated I have talked to Mr. Watts and I know the direction that I have to go to take care of it. Mr. Higgins stated okay. Mr. Tanski stated the following: We are going to take care of it and we're waiting on the blacktop. We have an issue that the State of New York wants us to change the pitch out near the road a little bit so, we have to do some work out there. Tomorrow we're going to put grass in and they want it stabilized so we're going to get a tractor-trailer load of sod coming tomorrow and then we will hydro seed the rest of it. We have our shrubs in according to plan and the only thing we have to change is the handicap parking, which we will do when we re-blacktop. Mrs. Murphy stated as we asked Mr. Gray from the Home Depot, is there a reasonable amount of time required to have this completed by? Mr. Tanski stated I would say 60 days at the most. Mrs. Murphy asked and is this reasonable for you? Mr. Tanski stated correct. Mr. Watts asked within 60 days you would have moved the handicap signs? Mr. Tanski stated the following: Yes, the blacktop plant where I get my blacktop from isn't opening until the end of April and I'm trying to get on their schedule now. In the meantime, we have to do the work for the State of New York out front where they want us to change the pitch of the road coming in a little bit. So, we can't blacktop it even if we wanted to until the State inspects that and they sign off on it. Mr. Watts stated and you will redo the handicap spots so it is in compliance with the site plan and there would be a cut put in the curb so people can get in and out who are in a wheelchair? Mr. Tanski stated I don't understand; there's going to be a ramp there. Mr. Watts stated it's not going to be a wooden ramp is it? Mr. Tanski stated no that was only temporary; we will build a ramp out of concrete. Mr. Watts stated okay. Mr. Tanski asked how will that impact this sign if they want to put it up? Mrs. Murphy stated if you're not compliant within 60 days, then Code Enforcement would make you take the sign down. Mr. Tanski stated okay.

Mr. Roberts made a motion to approve the sign application for Dunkin Donuts (Halfmoon Sunoco) condition on the site being brought into compliance (i.e.- handicap parking) within 60 days of the approval. Mr. Nadeau seconded. Motion carried.

Old Business:

10.106 OB Pipino/Vosburgh Subdivision, 127 Vosburgh Road – Minor Subdivision

Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: I'm here tonight representing Pipino Builders LLC for the continuation from the February 14, 2011 Planning Board meeting of the proposed 3-lot subdivision located at 127 Vosburgh Road. Since that time, we have responded to Mr. Lyons' comment letter and we have prepared a revised stormwater management plan for review by the Planning Board, the Planning Department and CHA. Some of the major items that were addressed and/or clarified were the clearing of vegetation within the Army Corp of Engineers (ACOE) wetlands. We have documentation stating that it is not a regulatory activity within the wetlands. I also talked with George Casey, from the Enforcement Division of the ACOE, and he said it is not regulatory as long as the clearing is done without filling, rutting of soils, and disturbance of the soils; there is no issue. Basically, any clearing that needs to get done in there needs to be done extremely carefully, but it can be done. The reason for the selective thinning is to improve the sight distance looking west for the single point access of the 3-lots. The single planned access is endorsed by the Saratoga County Planning but every Town does have a different view on that. I'm not sure what Halfmoon's is, but some are for and some are against and Saratoga County does endorse single point accesses. Also, another major concern was the sewer line and it is owned and maintained by the Central Halfmoon Sewer Corporation. It is a force main and it is not a gravity sewer. The importance of that is the actual cost of tying into the force main is somewhat prohibited because with the tie-in you have tie-in fees per unit, you have inspection fees and the cost of the grinder pump and the continual maintenance of the grinder pump. If we could gravity feed into the line, we would have definitely tied into the sewer line. Since we have good soil conditions on the

parcel and meet and exceed any of the New York State Department of Health (NYSDOH) spatial requirements for location, for the perc test and things of that nature, we are going with the on-site septic systems. Also, we're prepared to revise the stormwater management plan (SWPPP). We will revise the plan to correct some issues that were in the first plan. Also, from the time that the first plan was prepared to this plan the regulations changed and the regulations became a lot stricter. This was just adopted so the new SWPP plan will represent that. I was reviewing the plan this morning and I did notice that Lansing Engineering inadvertently placed an easement note on the stem of the proposed flaglot and there is no easement there as all utilities will go up the common drive. I did talk with Mr. Lansing and told him that that needs to be revised and that area would be retained as natural vegetation. That should get the Planning Board up to speed for the changes and additional information that was requested at the February 14, 2011 Planning Board meeting. Mr. Higgins stated the following: Regarding the clearing in the wetlands, the word you used was not "clearing" and you used another term. In other words, you're not going to take everything down in that area? Mr. Rabideau stated the following: No, basically it would be just enough to get the sight distance. To clear it would take away from the project. Mr. Higgins stated I'm talking about just what you need for the sight distance. Mr. Rabideau stated that is correct. Mr. Higgins asked is there going to be seasonal brush that's going to interfere with the sight distances at certain times of the year? Mr. Rabideau stated no, if anything, the thinning will be mostly the brush and the low growth stuff because the canopy overhead is mature and basically it is just the stalk of the tree so you can see around those. It is just the brush right at the corner that is maybe 10 to 20 FT high, tops. Mr. Watts asked what are you going to do with that brush? Mr. Rabideau stated we would cut it and we would just cut enough to do the job and make it look good because it is in front of the parcel. Mr. Higgins asked are there any mature trees within that area that could possibly interfere with your sight distance? Mr. Rabideau stated there are some but none of the trees would interfere with the sight distance. Mr. Higgins asked are they far enough back from the road? Mr. Rabideau stated the following: There are some trees in there but you don't have to clear everything as long as you can readily see through the trees. There are not very many trees there and most of the problem seems to be the brush. At this point in time you can still see quite a ways up but this is really just to get the maximum amount of sight distance. Mr. Watts asked what if it grows back? Mr. Rabideau stated they can just cut it. Mr. Watts asked would the owner of the property re-cut it to keep the sight distance? Mr. Rabideau stated yes, because he has a vested interest in the safety and welfare of his family. Mr. Watts asked so are you saying that if there is any approval given that that would be maintained? Mr. Rabideau stated that's correct. Mr. Watts stated because that brush tends to come back. Mr. Rabideau stated right, that's correct. Mr. Berkowitz asked who would make that determination; is it 4 FT or 6 FT? Mr. Rabideau stated the following: Right now the elevation is higher so the issue is the existing brush that is there now, which on average is about 15 FT high, so that is the stuff that is the problem now. So, when you would cut that down, it's going to be many years before it becomes an issue. So, if the brush is 4 to 5 FT high, you would be looking over the top of it. Mr. Berkowitz stated or you could get grass in that area that grows 3 to 4 FT high. Mr. Rabideau stated that's not going to be a problem because you would see over the top of it. Mr. Ouimet stated the following: I have a few questions regarding the clearing easement and the sight distance issue because as you know I've asked these questions before at the last couple of meetings. As of tonight, do you know how much of the vegetation in that clearing easement corner you're planning on removing? Mr. Rabideau stated no, the only I answer I can give is enough to do the job and the less, the better and that is the only answer I can give you. Mr. Ouimet stated if you're not really sure how much and what has to be removed from that corner to improve the sight distance, how comfortable are you with the conversation you had with the enforcement person at the ACOE where he said "you can clear it"? Mr. Rabideau stated very comfortable because we go on quite a few enforcement actions with him. Mr. Ouimet stated but he hasn't seen it and you don't know what

you are taking out of there. Mr. Rabideau stated the following: It doesn't matter what you're taking out; their job is to enforce the regulations and clearing and cutting out trees is not a regulatory activity. It is the filling and the disturbance of soil, which is filling, rutting and taking the stumps out and if they cut that, they can't take the stumps out. Basically, this is something they have to do by hand, they can't get in there with a skidder or anything like that. They have to consciously make an effort when they leave that to not disturb anything. The ACOE will then go out and if they see a problem there, Mr. Pipino's is in trouble. But, if it is done right, there is no violation and that's the way it goes. Mr. Ouimet stated the following: So, it seems to me that the applicant is in trouble either way. If he takes too much out, he's in trouble with the ACOE. Mr. Rabideau stated no, he can take as much as he wants. Mr. Ouimet stated if he takes nothing out, he's probably in trouble with this Board because we are assuming that we're approving the sight distance with something being taken out of there. Mr. Rabideau stated the following: Right and that leads back to my answer to the question; we're taking out as much as needed. The last thing we want to do is clear it. But, if we have to get the sight distance, we're going to have to clear it. Mr. Ouimet stated and everybody understands that the last thing that this Board wants to do is to compromise the sight distance because of all of the cars and all of the traffic leading onto the road from a shared driveway. Mr. Rabideau stated the following: That is correct. But there is a point of the shared driveways and that's the best location on the parcel because that is where you have the elevation where you can see both ways and they are far enough away from the curve. It's kind of like it's in the center. Mr. Ouimet stated the following: I understand the issue with the shared driveway and I don't think that is quite an issue for me, but the sight distance is an issue. But, I'm not feeling real comfortable listening to the conversation tonight about "well, I'm not sure what I'm going to take out, I'm not sure whether or not the applicant's going to really maintain it if it is taken out, I'm not sure if I'm going to take anything out". Mr. Rabideau stated the following: I'm saying that the applicant will maintain it but the important thing is that he will clear as much as he needs to. If you want it all cleared, we will take the whole thing out. But, I don't think anyone wants that. So, it's trying to do enough to get that sight distance. If we only have to take out a third of the vegetation or just the low lying brush, that's all we have to do. Then it would look good and it meets the Board's concern with the sight distance. That's the priority and we have to meet that. We will do whatever it takes; either all of it or hopefully only a portion. Mr. Ouimet stated and everybody's clear that's why you have to meet it to put the project in, you have to maintain it to make it a viable situation. Mr. Rabideau stated that is correct. Mr. Higgins asked is all of the clearing going to be done in ACOE wetlands or is some of it going to be done in New York State wetlands? Mr. Rabideau stated the New York State Department of Conservation (NYSDEC) are in another location and this is strictly ACOE. Mr. Higgins stated according to the map it says "limits of New York State". Mr. Rabideau stated that is the 100 FT adjacent area. Mr. Higgins asked so is the NYSDEC wetlands across the road? Mr. Rabideau stated that is correct. Mr. Higgins asked and are there any New York State regulations regarding clearing within the 100 FT buffer. Mr. Rabideau stated no. Mr. Higgins stated okay. Mr. Higgins stated the following: I know we've asked this question before; you have a proposed boundary line as opposed to the existing boundary line. Basically, I guess what you are asking this Board to do is vote on the existing property line at this point? Mr. Rabideau stated the following: That is correct with the understanding that our client and the neighboring people are in agreement that they want this line fixed. Right now I believe it is set up as an equal land swap. Mr. Berkowitz asked is this just basically for cosmetics? Mr. Rabideau that is correct. Mr. Higgins stated in your presentation you said if you could do it with a gravity feed, you would have hooked up to the sewer. Could the two front structures gravity feed into the sewer? Mr. Rabideau stated no, because this is a force main all the way through so you have to have a grinder pump and it can't be gravity fed and it has to be pressurized. Mr. Watts asked is the sewer along Vosburgh Road a force main and it is not gravity at any point? Mr. Bianchino stated the following: I imagine it is gravity within

the mobile home park. It is pumped out and down and that is how it gets out and ties into the main Central Halfmoon Sewer system. There is a pump station inside the mobile home park. Mr. Watts asked so there is a pump station inside the park going into where? Mr. Bianchino stated the following: That's what this line is. It is the pipe that exits the park from the pump station and that is a force main. Mr. Ouimet stated the following: Regarding the shared driveway; there has been a lot of conversation about it and the 2 duplex units, which are the front 2 parcels, how much of the common driveway or the main driveway do those 2 duplexes share? Is it 50 FT or less than 50 FT or 75 to 80 FT? Mr. Rabideau stated I would say from the edge of the road back is about 50 FT tops. Mr. Ouimet asked so the 3 lots really only share that much of the shared driveway? Mr. Rabideau stated the following: That is correct. It is basically to have that common curb cut and that's about it. Once they pretty much turn in, they're in their own parking areas. Mr. Ouimet stated based on the notes in the plan with respect to the long stem of the shared driveway, is that going to be constructed to hold an emergency vehicle. Mr. Rabideau stated that is correct, it is designed for a fire truck. Mr. Ouimet stated the following: Okay. Regarding the septic tanks; we talked about tying into the force main and the applicant and you as well have provided information indicating that it cost prohibitive. So, consequently what you have done is designed septic tank systems for all 3 lots. Mr. Rabideau stated the following: That is correct and they meet the spatial requirements for the NYSDOH. One system is located uphill and that is more than 200 FT and we do meet that requirement 200 FT. Mr. Ouimet asked have those 3 septic tank areas been designed in accordance with the regulations? Mr. Rabideau stated they will be because I believe the percolation is 5 to 10 minutes. Mr. Ouimet asked Mr. Bianchino if he had looked at that and was he comfortable with the way they were designed according to specifications? Mr. Bianchino stated yes. Mr. Ouimet stated the following: One of the issues raised at one of the public hearings was the issue of buffering. They wanted the lots to be buffered or a request was made to plant a tree or two to buffer one of the neighboring properties. I wasn't clear from reading the response as to whether or not it was absolute that they were not going to buffer or it was just a discussion about the fact that this is a minor subdivision and we can't force you to buffer. Mr. Rabideau stated the following: No, it's part of an existing conditions practical thing. Some of the neighboring parcels have no vegetation as far as trees and stuff. The trees start at the applicant's property. So, there are trees on our side but there aren't any trees on the adjoining properties. So, they were requesting some kind of vegetated buffer with evergreens and things of that nature. But, the problem is that evergreens don't grow well underneath a deciduous canopy, which is all through here. So, you would end up with little scraggily trees and that makes no sense. A gentleman in the audience stated that he has nice pine trees in the back and that he would like a couple more so he wouldn't have to look at a big house. Mrs. Murphy asked so you're not putting the trees on his lot. Mr. Rabideau stated that is correct. Mrs. Murphy asked are those the trees that he is talking about? Mr. Rabideau stated yes, I believe there are some evergreens or spruce trees on his lot. Mr. Berkowitz asked is the applicant going to be running his business from that location and would there be construction vehicles or any other vehicles that are non-personal use that would be on the property? Mr. Rabideau stated no, just his pickup truck that he drives everyday. Mr. Berkowitz asked would it be his own personal pickup truck. Mr. Rabideau stated yes. Mr. Berkowitz asked would he store any materials on his property? Mr. Rabideau stated no. Mr. Watts stated the following: I think we certainly analyzed this one in great detail. Also, I received a letter today from Ms. Mary Zeppetelli who owns the Vosburgh Road Mobile Home Park. Mr. Watts read Ms. Zeppetelli's letter into the record. (see attached – Exhibit A Page 1 of 1)

APR-11-2011 15:26 From: "Exhibit A Page 1 of 1" To: 518 371 0304 P.2

April 11, 2011

TO: TOWN OF HALFMOON PLANNING BOARD
ATTENTION: STEVE WATTS

RECEIVED
APR 11 2011
TOWN OF HALFMOON
PLANNING DEPARTMENT

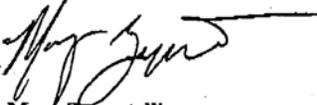
FROM: MARY ZEPPELELLI
130 VOSBURGH ROAD

I was informed by my neighbors that if I had any concerns about the Pipino Project on Vosburgh Rd across from my property I could write a letter that would be submitted to the meeting tonight, April 11, 2011.

I believe that all the water in the area is being drained on my property which renders it useless. I am concerned that more water will be draining on my property because of this project. Also, I understand that they will be putting in septic systems instead of connecting to the sewer system. My park was made responsible to supply the piping to every home from my driveway to Cemetery Rd so that the homeowners would not have to incur the cost. I do not understand why the Pipino Bros do not have to connect to the sewer system.

I would appreciate if you would bring up my neighbors and my concerns at the meeting tonight.

Thank you,


Mary Zeppetelli

Mr. Watts asked Mr. Bianchino what his response was to Ms. Zeppetelli's concerns relative to the water flow and the sewer system. Mr. Bianchino stated the following: Regarding the sewer; if there were laterals provided it would be similar to what we do with water lines. There would be a capped

lateral that was provided to the property line or to the right-of-way line, but it would still require the construction of the installation of a grinder pump because that line is a force main. If there was a lateral put in for this parcel, the lateral would be there but they would still have to tie in to the grinder pump. Mr. Watts asked have you looked into Ms. Zeppetelli's questioned about "I am concerned that more water will be draining on my property"? Mr. Watts further stated I believe Mr. Rabideau answered that before, however, we do not allow water to go from one piece of property to another and has CHA looked at that from an engineering standpoint? Mr. Bianchino stated the following: Yes we have looked at that. The plan includes the Stormwater Pollution Prevention Plan (SWPPP) in accordance with the new regulations, which required an on-site storage of runoff. Mr. Rabideau stated we did the first SWPPP and then the rules changed and we did a second one to meet the Northern Halfmoon Generic Environmental Impact Statement (GEIS). Mr. Watts stated so it has been thoroughly studied. Mr. Rabideau stated absolutely. Mr. Higgins stated for the record; we also received a response letter from the Halfmoon Center Neighborhood Association dated April 11, 2011. (see attached – Exhibit B Page 1 of 2 and Page 2 of 2)

"Exhibit B Page 1 of 2"

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Service by Fax is not accepted

April 11, 2011

Town of Halfmoon Planning Board
2 Halfmoon Town Plaza
Halfmoon, New York 12065

Re: Pipino/Vosburgh Subdivision
127 Vosburgh Road - minor subdivision

Dear Chairman Watts:

Our office represents the Halfmoon Homeowners' Association in connection with the proposed Pipino/Vosburgh Road project, which is on the agenda for the Planning Board for April 11, 2011.

Connection to Sewer System

Both Mr. Hufeinz and Mr. Lyons presented information at the public hearing that the flow of water was from the higher Pipino/Vosburgh Road proposed subdivided area toward their property. Mr. Lyons noted that his property has a septic system since it predates the location of the sewer line on Vosburgh Road, and as a result, his septic system needs to be pumped fairly often. He also relies upon well water. The legitimate concern of the homeowners is that the addition of multiple septic systems on the proposed subdivided property to serve multiple residences creates a heightened and unnecessary risk of failure because of the high water table and the incumbent flow into the well systems for the properties lower in grade.

This issue is rather easily addressed by the proposed subdivision connecting to the public sewer line which goes directly in front of the property. These comments were also noted by Mr. Nicholas Demos, P.E., an engineer with Hudson River Valley Engineers, PLLC, in his written submission dated January 23, 2011, together with his oral presentation. The size, location and topography including a substantially high water table and immediately adjacent wetlands raised a substantial prospect of damage to adjoining properties being caused by the septic systems. At the hearing, it was raised by the Board that the public sewer system might not be accessible by the property, even though, as pointed out by the presenters, there was evidence that the sewer line went past the property. Mr. Rabideau was directed to get back to the Board concerning the accessibility of the property to the sewer line which would obviate the need for the more problematic septic systems. At the subsequent February 14, 2011 hearing, there was further presentation by the neighboring property owners of the high water table and the problems associated with the septic systems.

The applicant, rather than follow up with the sewer district as had been expressed in the January 24, 2011 hearing, did not address the connection to the system in his filing made available on Friday, and instead focused on only the positioning of the septic system. However,

Website: LuibrandLaw.com

"Exhibit B. Page 2 of 2"

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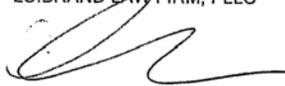
the repositioning of the septic systems did not address the comments which were presented, once again, at the February 14, 2011 hearing, by multiple residents who indicated that again there were high water tables. Mr. Donald A. Baker, also of Vosburgh Road, and who also indicated that "the soil conditions and hydrology leave my property and those in the general vicinity incredibly wet for much of the year". He also pointed out that the property proposed for subdivision substantially floods during rainfalls, and that adjacent properties had had problems with septic systems because of the high water table.

In response, in the letter from the applicant dated March 23, 2011, the issue of access to the public sewer system instead of septic was dropped, and rather the applicant focused on the cost associated with connecting to the system.

It is not an unreasonable burden on the applicant for the Planning Board to require that the applicant connect to the accessible public sewer system immediately fronting the property given the intensity of the use proposed for the property.

Very truly yours,

LUIBRAND LAW FIRM, PLLC



Kevin A. Luibrand, Esq.

KAL:jlm

Mr. Nadeau asked Mrs. Murphy to explain the 45-day process. Mrs. Murphy stated the following: Statutorily, once the public hearing is closed for a subdivision application, the Board has 45-days to make a decision one way or another with regards to the application. That is based on an assumption that at the time the public hearing is closed, the Board will be in possession of any and all materials necessary to make an appropriate decision. At this point in time, we received our last bit of

information yesterday both from the engineers for the neighborhood association as well as some comments from the neighbors. The reason you didn't get those until today was because they didn't have the information to review to comment to you guys with their questions until maybe Friday. So, for this Board, normally, I would advise under all circumstances that you should act within the 45-day period. I would feel comfortable legally in saying that because you just received all the information that was necessary, you could choose not to proceed tonight. But, I will tell you that our Town engineer has commented that they have everything that they need and they are comfortable with it. Mr. Watts asked Mr. Bianchino if Mrs. Murphy statement was correct. Mr. Bianchino stated that is correct.

Mr. Berkowitz made a motion to approve the Pipino/Vosburgh Road minor subdivision. Mr. Ruchlicki seconded. Motion carried.

11.021 OB RGH Enterprises, Liebich Lane – Commercial Site Plan

This item was removed from the agenda due to insufficient information.

11.029 OB Apropos, 1475 Route 9 – Change of Use

Mr. Keith Burke, representing the owner of Apropos, stated the following: I am here tonight representing the owners of Apropos. I have submitted the additional requested information from our last meeting. I'm hoping that that addressed the questions that you had about the activities. Mr. Watts stated the following: We have people here in the audience tonight who are not privy to this information. So, you are making a presentation for a change of use for your facility so why don't you tell us what your proposed uses are going to be. Mr. Burke stated the following: The uses are at the desire of the owners, which is Claire Bronfman, her sister Sara Bronfman and Pam Cafritz. They originally intended to open up the facility as an Internet Café but unfortunately that has not prevailed. At the discretion of the owners, for individuals that would like to go into the facility and have a birthday party, a social evening and as I have said in my note to you, there are events that are associated with seasonal times such as Halloween, Thanksgiving, Christmas, New Year's etc. Nothing would be scheduled in the facility other than the owners who would typically use it once a month themselves to have a business meeting, which is typically on a Sunday afternoon or early evening. Other than that, it is just a facility that is used at the discretion of the owners and it would be a private use. Mr. Watts stated the prior use that you were approved for was as an Internet Café and this is a new use this way. So, if you wanted to go back to being a 24-hour Internet Café, you would come back before this Board with a new application. Mr. Burke stated yes sir. Mr. Higgins stated the following: I have been at all of these meetings and this is the first I've heard the other 2 names as far as owners. Is this owned by a corporation or is the deed in all 3 names? Mr. Burke stated the following: From my understanding, the deed is in all 3 names. I think it is owned by a Limited Liability Corporation (LLC). Mr. Higgins asked and are all 3 members listed as members of the LLC? Mr. Burke stated yes sir. Mr. Watts stated the application that we have here indicates the property owner is NXV Trust, 457 New Karner Road, Colonie, NY. Mr. Burke stated right. Mr. Higgins asked so they're the members of the trust, the trustees of the trust and the beneficiaries of the trust. Mr. Burke stated I don't know all those answers for you and I believe that they're owners and beneficiaries of the trust. Mrs. Murphy asked Mr. Williams if the Planning Department had an authorization showing that these people have the authority to ask for this use. Mr. Williams stated yes it is in the file and it was signed by Claire Bronfman. Mrs. Murphy stated so you do have the owner authorization. Mr. Watts stated we have the owner authorization as Village Hall LLC (Apropos) and it authorizes Keith Burke to bring this application before us and it was signed by Claire Bronfman. Mr. Burke stated right. Mr. Ouimet asked so, wouldn't that be the applicant; Village Hall LLC? Mrs. Murphy stated and that is who is here. Mr. Ouimet stated right and that with the change of use

request as titled. Mrs. Murphy stated yes. Mr. Watts stated the following: Yes, you have the business; the project name and then you have the property owner. I'm not an expert in corporate law so you may have the business operated by one entity and the property owned by a separate entity, which I believe is what we probably have here. Mrs. Murphy stated the following: Which is fine. I just wanted to make sure that they had the owner authorization form. Mr. Berkowitz asked what occurs at a typical business meeting? Mr. Burke stated the following: I don't attend them and it's not my business. It's between Claire, her sister Sara and Pam Cafritz. I can't answer your question in precise terms. Mr. Berkowitz asked would it only be the 3 of them in a business meeting or would there be more people at a business meeting? Mr. Burke stated it would not be a large meeting; it would be a small gathering. Mr. Berkowitz asked would that be 90 people or 5 to 10 people? Mr. Burke stated no, it would be about a half of dozen people to as many 10 people. Mr. Nadeau stated the following: What type of business are they in? Is it real estate? Mr. Burke stated they do have other properties that they own collectively, so they could be discussing that. Mr. Nadeau stated that's what I'm saying; is it a real estate business? Mr. Burke stated I'm probably really not the person to answer that for you. Mr. Nadeau asked but aren't you representing them? Mr. Burke stated the following: If they would be talking about the Apropos facility of maybe an upcoming event and somebody wanted to use it, how are you going to use it and how are they going to set it up. I could give you something in that order. Mr. Nadeau stated you're representing them but you don't what type of business they are? Mr. Burke stated I'm representing them for the application and the events that I know they take place at their authorization with the facility. Mr. Nadeau stated I'm confused. Mr. Watts stated the following: In the application that was submitted and it's in the file, the narrative stated "as for the number of people that attend these events, that can range from as little as 5 to a maximum of 90+. The facility has a permitted parking space for 91 vehicles and no event will exceed the parking capacity and all attending will park in the allotted space". So, is there going to be 90 people; at one point you gave us higher numbers and then you gave us lower numbers? So, as long as the parking isn't spilling out onto Route 9. Mr. Nadeau stated in the application there's nothing there that says it's a birthday cake company or a real estate company. Mr. Watts stated the narrative stated that there are social events such as Sunday brunches, birthday parties, and evening dinners. Mr. Nadeau stated typically when we have an applicant, they tell us what their type of business is and I'm a little confused, as we don't know what it is. Mr. Roberts stated the following: This is the second time this poor guy is going through this with us and I feel that he is confused. How come the owners aren't here to answer our questions? I think that would clear up everything. Mrs. Murphy stated the following: I don't think you're telling me that they're operating a business from this site. They are doing professional business meetings and there is no business being run from this site. Mr. Burke stated correct, there is no business being run at this location. Mrs. Murphy asked would there be any outside storage? Mr. Burke stated no. Mrs. Murphy asked would there be any manufacturing? Mr. Burke stated no. Mrs. Murphy asked would there be any light industrial work being done? Mr. Burke stated no, nothing of that nature at all. Mr. Berkowitz asked is their business a business meeting? Mr. Burke stated like I said, the owners will have a meeting typically once a month there. Mr. Roberts asked about what? Mrs. Murphy stated the following: We don't care what their meetings are about. It is a conference room that they are using for meetings. We care about how many people are going to be there and we care that it meets the fire code. Mr. Roberts asked would those meetings be open to the public? Mrs. Murphy stated the following: Mr. Burke is saying no. It's a private meeting for a business. Most people pay money for that type of thing but Mr. Burke is saying that they are going to offer it for free. The business is the four walls that they allow people to use for birthday parties and for meetings. I guess the word "business" is what's throwing us off; it's a meeting hall. Mr. Burke stated that is correct. Mr. Roberts stated so I guess it would be social gatherings. Mr. Burke stated correct. Mr. Ouimet stated but they're not in the business of renting this "hall" for any particular

purpose; be it birthday parties, Thanksgiving Dinner, Easter Dinner, a business meeting or whatever? Mr. Burke stated no. Mr. Ouimet stated so; they are not in the business of renting the space either for compensation or for gratis? Mr. Burke stated the following: That is correct. They're not in the business of renting the facility. Mr. Higgins asked approximately, what would be the hours of operation? Mr. Burke stated when I've attended, they would usually start around 7:00 to 8:00 pm and it would be over by the midnight range. Mr. Watts stated the application stated that you would be open 24 hours a day, which is what we previously approved with the Internet Café. Mr. Higgins asked are you going to be open 24 hours a day? Mr. Burke stated when I've been there, the usually have a dinner and a social that starts at 7:00 pm and it's usually over by midnight. Mrs. Murphy asked is that a business social? Mr. Burke stated no, it's a private event. Mrs. Murphy stated the following: They would be meeting the fire code, they are meeting the parking regulations, they're not having outside storage and nothing that he is proposing is a use that is not allowed in that area. You don't normally ask someone what the content of the business is? Mr. Roberts stated but we do ask what their business is. Mr. Nadeau further stated every applicant that comes in I ask what type of business they would be running. Mrs. Murphy stated they would be running a meeting hall. Mr. Ouimet stated but they're not. Mrs. Murphy stated the following: We don't care if the business is for profit or not. As long as they're in compliance with your code, which having meetings, having private gatherings, etc. it fits in your code and they meet your parking requirements. The code now has enough to determine the type of structure necessary to be in compliance with Building Code. They're not serving alcohol, they're not preparing food, and they're having the food catered so the New York State Department of Health (NYSDOH) is going to have separate rules for them. There is adequate sewer, there is water on-site and your obligations have been met. We don't need to know exactly what it is they're meeting about. Mr. Roberts asked Mrs. Murphy if she feels the Board has heard enough to act on this proposal. Mrs. Murphy stated the following: When you have a Internet Café, they were there for the internet but you don't know what they were doing in meetings in the back because that didn't matter. As long as you knew they were going to have meetings in the back. Now the meetings are in the front. Mr. Roberts asked would the kitchen be used for a source of catering? Mr. Burke stated yes, the kitchen would be used if a caterer came in and used the kitchen but it is not used by people who are not in the business of catering. Mr. Higgins stated so the preparation of food would be off-site, the caterer would bring it in and then just serve it out of the kitchen. Mr. Burke stated that is correct. Mrs. Murphy stated yes, that what the allegation says. Mr. Ouimet asked so if we were to approve this application, we would approve merely the fact that they can use this space for what they've come to us to say they want to use it for? Mrs. Murphy stated right and there are no outside activities permitted. Mr. Ouimet stated and we're not approving the use of the kitchen? Mrs. Murphy stated the following: Unless there is a caterer. The caterer was mentioned in the application and the NYSDOH has been there and there is a NYSDOH approval. Mr. Ouimet stated the following: Okay, the NYSDOH has been there and they got an approval to run a vegetarian restaurant and an Internet Café. Now they have withdrawn that and they're now saying that they are not running an Internet Café and we are not running a vegetarian restaurant. They want to use the structure to hold gatherings. So, are we being asked to approve the whole ball of wax or just the gatherings? Mrs. Murphy stated just the gatherings. Mr. Ouimet stated so in essence we're not approving the sale of food, we're not approving an Internet Café and we're not approving a 24-hour open operation. Mr. Nadeau stated we would be approving the 24-hour operation. Mrs. Murphy stated they could have meetings until 3:00 am in the morning if they want. Mrs. Murphy stated they cannot have outside gatherings, they can't sell alcohol, they cannot store things outside and they are not selling food. Mr. Roberts stated so; they have fulfilled their obligations? Mrs. Murphy stated the following: I can't answer that for you. You, as a Board, have to determine whether or not you are comfortable with this proposal. Mr. Watts stated with our review of this, we are fulfilling our obligation as the Town of Halfmoon Planning Board when we approve or disapprove

this application. Mr. Berkowitz stated the following: Could they have activities at this location that were bought or paid for at another site? For instances, their main office is located on New Karner Road; so if somebody pays for something at New Karner Road, could they transfer that up to Apropos? Mrs. Murphy stated as long as they're underneath the 90 maximum attendees and they're not cooking for them. Mr. Ouimet asked so, are we saying that whatever we approve will have the maximum occupancy of 90? Mrs. Murphy stated yes, that is in their application. Mr. Ouimet stated they have said 90+. Mrs. Murphy stated they have to give a firm figure. Mr. Burke stated I'm not sure what the fire code is for that facility but I think it is in excess of 90+. Mr. Roberts stated you have to give us a number. Mr. Burke stated there would not be an excess of 90 people. Mr. Watts stated the following: Well, it could be whatever you want but our fire code people would go to the site and based on the size of the building and they can tell you what the maximum load is. We look at that at any facility and that is part of our fire inspection. Mr. Ouimet stated so, if it's going to be more than 90 and it has parking for parking for 91 vehicles, how much can it be and when does it exceed the allowed parking area? Mr. Watts asked on what basis did we calculate the parking? Mr. Williams stated the fire code is 1 person per every 15 SF, so it would probably be up in the hundreds. Mr. Ouimet asked how many parking spaces do they have. Mr. Berkowitz stated they could have 5 spaces for 5 buses and they could have 500 people in there. Mr. Williams stated if they have 91 parking spaces, then you are assuming that all 91 people that have come there bring their own vehicles. Mr. Ouimet stated the following: The site has 91 parking spaces, so they can't park any more than 91 cars there. We have no idea how many employees or how many owners representatives will be there. How many people would be serving or monitoring whatever meeting or function or party or catering function or whatever is going on. So, we don't know how many of those spaces would be dedicated to staff. Consequently, how many spaces are going to be designated to other people who don't normally associate with staff? It's kind of like a cloud. Mrs. Murphy stated the following: If the Board wants to pick a number based on the parking, then that is a reasonable process for you to go through. Because you can articulate a reason as to why you're limiting the number based on the parking. For instances, the Elk's have 800 different organizations come in there and have meetings. You don't ask them what organizations are coming, how many people they're going to have and what they're going to serve. You don't do that so, I don't see why this would be any different. I can see saying 90 is your limit because you have 91 parking spaces. You can say 85 is your limit because of the 91 parking spaces. Mr. Roberts stated Mr. Burke just said 90. Mr. Ouimet stated I don't want to suggest an artificial limit because the applicant is coming to us saying that this is what they want to use their business for. Mr. Higgins asked what was the occupancy when we had it approved for the Internet Café? Mrs. Murphy stated but that didn't happen. Mr. Higgins asked who puts up the occupancy signs saying that this can be occupied by a certain number of people? Mr. Watts stated the following: Our Code Enforcement Officers do that. When we had Apropos, we had 5 full-time employees and 4 part-time employees. Code Enforcement goes to the site and they look at the restrooms and the facility and they make sure that everything is in compliance. Mr. Higgins asked so, after this is approved by this Board, would the Code Enforcement people go to the site and would they put up the maximum occupancy sign on the wall? Mrs. Murphy stated in this particular application, it would make sense. Mr. Watts stated the following: If we give approval to this I would say, that we give the approval and indicate in the approval process that should we have issues where they exceed the parking and we have parking issues, that the Planning Board has the authority to re-visit the maximum capacity of this building. If I see or we get complaints that there were cars out on Route 9 or they are parked over in Crescent Commons or wherever, I'm sure we'll hear from people. I would be willing to revisit the issue as Code Enforcement and Planning. Mr. Roberts stated like I said, a few minutes ago Mr. Burke said 90, so why don't we stay with the 90 and put a parking contingency in there as well. Mr. Watts stated that's fine.

Mr. Roberts made a motion to approve the change of use application for Apropos with a condition on no outside storage or activities, a maximum of 90 attendees at any one event and the Planning Board retains the right to re-visit the site/use if parking ever becomes an issue. Mr. Ruchlicki seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the April 11, 2011 Planning Board Meeting at 8:05 pm. Mr. Berkowitz seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Board Secretary