

Town of Halfmoon Zoning Board of Appeals
Meeting - Monday, March 2, 2015
7:00 p.m.

Chairman Rose called the meeting to order for the Town of Halfmoon Zoning Board of Appeals at 7:00 p.m. on Monday, March 2, 2015 at the Halfmoon Town Hall with the following members present:

Members: Mr. Hansen, Mr. Burdyl, Mr. Brennan
Vice-Chairman Tedrow – absent
Alternate Member: Deborah Curto - absent
Secretary: Mrs. Mikol - absent
Mr. Marlow - Planner
Councilmen: Mr. Connors
Town Attorney: Ms. Cathy Drobny

Chairman Rose commented: Are we still delinquent with the minutes on previous meetings?

Mr. Marlow commented: No one has done the minutes from the last few meetings.

Chairman Rose commented: That puts us back a minimum of at least 2 months or more and that can't go forward, it has to be corrected, alright. Next meeting I want to have all the minutes current. If there is an issue please let me know, call me. I apologize for being late tonight I was wrapping up a meeting a work. Vice-Chairman Tedrow is out of town.

OLD BUSINESS:
PUBLIC HEARING:

Ushers Machine & Tool Co. Inc. – 180 Ushers Road 260.9-1-2 & 260.-1-44

Chairman Rose commented: The application from Ushers Machine & Tool Co. at 180 Ushers Road was presented to the Board at the February 2, 2015 meeting and we scheduled the public hearing for tonight.

The ZBA received an application from Mr. Donald Lincoln for a 2,300 SF addition to the existing 18,000 SF facility at 180 Ushers Road. This is an M-1 Industrial Zone and an office is an allowable use when incidental to the primary use. The Planning Board denied their request at their regular meeting of January 15, 2015 and the applicant is hereby requesting a front yard and rear yard variance.

Under Section 165-31 Schedule A the Town Code requires a 50' front yard setback for a principal structure. The proposed addition and existing building front yard setback is 20.3' from Ushers Road, requiring a variance of 29.7'. Under Section 165-34.C the Town Code requires a 10' rear yard setback for an accessory structure in the M-1 Zoning District. The existing structure is located 0.0' from the property line, requiring a 10' variance.

Chairman Rose opened the public hearing at 7:15 PM and asked if anyone would like to speak. No one chose to speak.

Mr. Jon Chetwynd, Machnick Builders, was present representing Ushers Machine & Tool at 180 Ushers Road. What we are proposing is to remove 504 SF office area and construct a 2300 SF office addition. Right now the existing building is a non-conforming existing condition in which the front setback is currently 20.3' which does not meet the 50' requirement by the Town. There is a small storage shed in the rear of the property that is basically right on the property line and we will require a 10' variance.

Chairman Rose commented: Do any of the Members of the Board have any questions?

Mr. Burdyl commented: The accessory structure is it a metal shed. What is the foundation and is it like a storage container?

Mr. Chetwynd commented: Yes, it is a small storage container approximately 6' x 6' x 7' tall and it is for storing excess scrap. They had problems in the past with people coming through and stealing scrap metal off the property so this is a more secure building for the more precious metals that they use in there so they don't get stolen off site.

Mr. Burdyl commented: Is that on some sort of foundation or can that be moved.

Mr. Chetwynd commented: I believe it could be moved.

Mr. Burdyl commented: So it is more of a temporary structure.

Mr. Chetwynd commented: Yes sir.

Chairman Rose commented: From my site inspection this past Saturday, I noticed that you're up against the railroad tracks. What is the distance between you and the railroad tracks? Do you know off hand?

Mr. Chetwynd commented: It looks about 20'.

Chairman Rose commented: Going back to the storage shed, it appears that the storage shed is as far back as it can possible be. That is temporary it can be moved.

Mr. Chetwynd commented: It doesn't have a foundation under it. I believe it's on 6" of gravel or it might be just right on the grass. I know they recently installed it last year because they use to have the barrels outside with the scrap metals in it and when the price of scrap went up they were noticing they were missing a lot of material over weekends when they are not open.

Chairman Rose commented: So you had to put the storage shed there to protect it from thieves and vandalism and stuff like that.

Mr. Chetwynd commented: Yes sir.

Chairman Rose commented: I don't see in the file that any notices went out to the neighbors? Did the notices go out to the neighbors? It doesn't necessarily mean that it didn't happen I just don't see them.

Mr. Marlow commented: Yes they went out (he was not on tape).

Chairman Rose commented: Was there any correspondence or rejections or anything like that?

Mr. Marlow commented: I did call Saratoga County today they are ok with the project.

Chairman Rose commented: Let the record reflect that a letter from the County Planning Board would be coming with no County wide impact.

Mr. Burdyl commented: I have another question on the metal shed. Assuming you are issued your variance tonight is your plan to bring the scrap metal inside the addition?

Mr. Chetwynd Commented: No sir, what they plan to do in the future is put an addition onto the existing warehouse and they would bring the scrap material inside. It would eliminate two of the metal sheds that are currently on site. One shed has a 10 yard dumpster in it and the other shed has about half a dozen barrels inside it with precious metals in it. At some point they would bring the barrels inside and remove the two temporary sheds.

Chairman Rose commented: Are there any other questions from the Board?

Mr. Hansen commented: We should look at each variance request separately or do should we do them both at the same time? There are two variances being requested and remember we had to do them individually, is that correct? They applied for two variances so we should approve or disapprove each one individually, correct?

Chairman Rose commented: Yes, I think you are right about that. It might be safer since it is a non-conforming situation already and they asking for the shed for the rear yard setback and the front yard setback is because of the deficiency to the road we probably should do it separately.

Mr. Hansen commented: They did apply separately I think we should act on them separately.

Chairman Rose commented: Are there any other questions from the Board? Are there any other questions from the audience? There was no response. The public hearing closed at 7:45 PM.

Chairman Rose commented: The first request we will do is the front yard setback. Town Code requires a 50' front yard setback for a principal structure, the proposed addition to the existing building is 20.3' from Ushers Road, requiring a variance of 29.7'. There are five tests to determine an area variance.

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Enforcement Officer, to grant area variances as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

"Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance."

Mr. Burdyl commented: In my opinion an undesirable effect will not be present because the site basically is continuing its main use and the setback will not create an undesirable element to the neighborhood.

"Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance."

Mr. Hansen commented: I would say that they expand on the side of the building because they really don't have an alternative on the other side of the building because of the warehouse.

"Whether the requested area variance is substantial."

Mr. Hansen commented: It is relatively a small portion of the building. It looks like its not much more than 10' toward the side and it's the same distance back from the road as the existing office portion of the building. It is relatively small in terms of square feet.

Chairman Rose commented: One of the things I heard on the site visit was that the construction will be symmetrical to the front of the building so it probably won't look any different from the road than it is today other than it's extended back.

Mr. Hansen commented: It is pretty much correct.

"Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;" and

Mr. Burdyl commented: I would say no, the conditions would remain the same.

"Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance."

Mr. Hansen commented: Well it's a choice that they made it is self-created in that sense but again it doesn't mean that we can't approve it as the law states.

Chairman Rose commented: Are there any more comments from the Board?

Mr. Hansen made a motion to approve the requested set back variance for the proposed office addition, seconded by Mr. Burdyl. Motion was carried unanimously.

Chairman Rose commented: The second variance request is a rear yard setback. The Code requires a 10' rear yard setback for an accessory structure in the M-1 Zoning District. The existing structure is located 0.0' from the property line, requiring a 10' variance. The metal shed is located right on the property line. We will go through the same five tests.

"The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Enforcement Officer, to grant area variances as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

"Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance."

Mr. Burdyl commented: No, there will not be an undesirable change to the neighborhood.

"Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance."

Mr. Hansen commented: There might be other ways and we just discussed what they are proposing to do in the future. It is a temporary structure so it's fairly easy to move if they need to.

"Whether the requested area variance is substantial."

Mr. Hansen commented: No, it's not substantial it's maybe only about 100 SF or something like that.

"Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;" and

Mr. Burdyl commented: There is no adverse impact and the conditions at the site remain the same.

"Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance."

Mr. Hansen commented: Yes, it was self-created but it's not going to have any noticeable impact on the neighborhood. It's not even visible unless you are standing next to it because it is hidden by the railroad embankment and it's behind the building. It's not even visible from the roads around the building.

"The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

Chairman Rose commented: Does the Board have any comments or questions? No one chose to speak.

Motion was made by Mr. Burdyl to approve the rear yard setback for Ushers Machine and Tool Company on Ushers Road, seconded by Mr. Brennan. Motion was carried unanimously.

NEW BUSINESS:

Jimmy Vasilakos – 1 Birchwood Drive 278.4-2-1

The applicant will not be present at tonight's meeting but will however be on the agenda for the April 6, 2015 meeting.

Motion made by Mr. Hansen and seconded by Mr. Burdyl to close the meeting. Motion was carried unanimously.

Respectively submitted by Denise Mikol, Secretary
Town of Halfmoon Zoning Board of Appeals