

**Town of Halfmoon Zoning Board of Appeals
Meeting - Monday, April 6, 2015
7:00 p.m.**

Chairman Rose called the meeting to order for the Town of Halfmoon Zoning Board of Appeals at 7:03 p.m. on Monday, April 6, 2015 at the Halfmoon Town Hall with the following members present:

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

Chairman Rose commented: Tonight is an agenda meeting there are no public hearings. We have three items before us but first we will take care of the minutes.

Vice-Chairman Tedrow made a motion to approve the December 1, 2014 minutes, seconded by Mr. Burdyl. Motion was carried.

Mr. Hansen made a motion to approve the January 5, 2015 minutes with one correction, seconded by Mr. Burdyl. Motion was carried.

Vice-Chairman Tedrow made a motion to approve the February 2, 2015 minutes, seconded by Mr. Burdyl. Motion was carried.

Mr. Hansen made a motion to approve the March 2, 2015 minutes, seconded by Mr. Burdyl. Motion was carried.

Chairman Rose asked Mr. Marlow if the County letter had been received regarding Ushers Machine & Tool Company.

Mr. Marlow commented: Yes, I believe there is a copy of it in their folder.

Patricia Kennedy/Robert Choate – 405B Hudson River Rd. - 286.-1-66

Chairman Rose commented: The request is for an area variance to build a 1528 SF garage for personal use in an M-1 Zoning District. The applicant received a denial for a building permit from the Code Enforcement Office under Section 165-34B Accessory Structures Location Part 1, 2, and 3.

Mrs. Kennedy and Mr. Choate were present with a proposal for a garage and commented: We live in a small ranch style house we bought 2 years ago which doesn't have much storage. We want to build a garage for our vehicles, tools, snow-blower, and garden things. It would be for personal use, no business.

Mr. Burdyl commented: Is the garage going to be attached to the house?

Mrs. Kennedy commented: No it will be separate. Mr. Choate commented: The house is actually located in the back corner of the property on an angle so there is no way of getting a garage attached to the house without going over the property line or being too close to it. We have a lot of room on the north side of the property where we have a tennis court and that is where we are proposing to put the garage.

Chairman Rose commented: According to Town Zoning you are in an M-1 Industrial District with an R-1 Residential use.

Vice-Chairman Tedrow commented: Is your access easement across NY State lands or private property.

Mr. Choate commented: It's across private property.

Chairman Rose commented: One of the notes I see here is that you have a flag lot.

Mr. Choate commented: No not really, we have the deed.

Chairman Rose commented: One of the denials the Planning Board is being defined as a flag lot and that your property is land locked without a minimum of 20' legal frontage on a public road.

Vice-Chairman Tedrow commented: I see the easement on your plan.

Chairman Rose commented: There are 4 variance requests according to the denial from the Planning Board. You need a rear yard setback from 35' to 18'. Once a variance is requested you have to revisit all the deficiencies of the lot.

Vice-Chairman Tedrow commented: The existing house is too close to the property line.

Mr. Marlow commented: Technically because it's a land-locked parcel we looked at that obviously as a flag lot minimum frontage is 20', as far as the rear yard setback the map I am looking at submitted Jan. 23, 2015 shows no dimensions and looks like it's less than 35' based off other dimensions shown on the map that is where that comes in.

Mr. Choate commented: I wasn't sure that you could see it clearly. Is the house too close to the back of the property?

Mr. Marlow commented: Yes, if you want to come over here I can show you.

Vice-Chairman Tedrow commented: What year was the house built? I ask that question and wonder if a variance was granted in the past for the landlocked parcel.

Mrs. Kennedy commented: 1971.

Mr. Hansen commented: Wasn't this all part of one large parcel at one time?

Mr. Choate commented: Originally yes. It was all owned by Scotmar who owned the restaurant and it was all one whole parcel. I am not sure how it all got split up.

Mr. Hansen commented: I think there was a subdivision, has anyone researched that? In fact, I could vaguely remember that something came before the Zoning Board a number of years ago about the other house that's on the lot.

Mr. Marlow commented: I think the lots are labeled A, B, and C.

Secretary Mikol commented: Would you like to see the ZBA file?

Chairman Rose commented: Haven't we already been on parcel B with their deck on the back? It seems very familiar to me. I am trying to recall why we were there because we walked that area once. The garage you're proposing to build is going to be in the front of the house.

Mrs. Kennedy commented: If you're facing the house it's to the left and yes a little bit forward of the house, we call it our side yard.

Chairman Rose commented: It's in front of the house from the bearings of the map.

Mr. Hansen commented: Looks like what I saw there and reading the decision they are using the backyard dimensions for an M-1 Zone to make that interpretation. I don't know if you have a copy of the resolution that the Planning Board passed at the November 24th meeting. The residential use is an existing non-conforming use. I'm not sure that the zoning hasn't changed over the years either.

Vice-Chairman Tedrow commented: Looking through the file in 2004 there was a subdivision proposed and the road frontage was one of the variances and substandard lot size was the other variance the ZBA approved both variances on November 1, 2004.

Mr. Hansen commented: Wasn't that for the house in the front Parcel A? I think it had a different owner then but I am not sure.

Chairman Rose commented: We need to do some research, the purpose of this meeting is to introduce a concept of a site visit and we have to get the information from the Town regarding the previous actions on this property so we can come prepared to the public hearing. Anyone else have a question?

Vice-Chairman Tedrow made a motion to set a public hearing for Monday, May 4, 2015 at 7:00 PM seconded by Mr. Brennan. Motion was carried.

A site visit will be done on Saturday, May 2, 2015 at 9:30 AM.

Chairman Rose requested copies of the prior meeting minutes be sent to Board members before the site visit.

RJ Valente Office Building Use Variance, 118 Button Road - 279.-2-23.2

Chairman Rose commented: This proposal is for a Use Variance at 118 Button Road which includes the office and garage structure that is no longer needed by the current owner under the approved mining permit governed by NYS Department of Environmental Conservation. The applicant is re-locating the truck equipment out of Halfmoon to a new site. The applicant is requesting to subdivide a 7-acre parcel out of the 71-acres and sell it off as a C-1 Commercial use and removing the new parcel from the DEC Life of Mine Permit. The applicant received a denial from the Planning Board at its meeting Monday, March 23, 2015.

Mr. Marotta was present with a request for a Use Variance. We are looking to reduce the size of the 71-acre parcel by carving out a 7-acre piece which includes the Office and Garage, remove it from the DEC mining permit and sell the parcel. We are looking for a Subdivision and a Use Permit from the Planning Board but were denied because the use would change from R-1 Residential to C-1 Commercial.

Once the parcel is subdivided away from the DEC Mining Permit a variance would be needed for the Use to be C-1 not the existing R-1.

Mr. Marlow commented: Basically, the use is not allowed in that zoning district. It's a commercial office building which is what they used it for. It is not an allowable use in the residential zone. When they chop off 7-acres from the mining permit under DEC the new subdivided lot won't allow the commercial use in an R-1 Zone. They need a Use Variance for the building to be used as a commercial business once it's removed from the life of mine.

Mr. Burdyl commented: The designation with the State of New York is changing from a mine to the commercial use in addition to what is being asked for here?

Mr. Marlow commented: Yes and Mr. Marotta can clarify it I do believe it's being removed from the life of mine once they have a buyer for the 7-acre parcel.

Mr. Marotta commented: Once we are granted the zone change we will sell the office space and garages for a commercial use and it will be removed from the life of mine.

Mr. Burdyl commented: Right now it's still considered part of the DEC Mine Permit.

Vice-Chairman Tedrow commented: If it gets broken off it goes back to R-1 Residential.

Mr. Marlow commented: Basically, they have a subdivision application before the Planning Board. It is like a chicken and egg thing. If they subdivide and don't get a variance for the use now they have a commercial building in an AR Zone so they will no longer be able to use it for what it's been used for. The variance will essentially be for a use on a to-be later subdivided parcel. Which one do you do first? Legal looked at it and they said go to ZBA get a Use Variance once you get it then come back to the Planning Board for a subdivision of land with the commercial use on it. The area they are subdividing out is virtually the bare minimum to sell. The new lot and maintenance of it as a commercial site plan with storm water mitigation stuff on site that needs to stay with that building. Any variance that was given to them you may want to look along the lines of wording the approval for use variance is only to be applied to the future subdivided 7-acre parcel.

Mr. Hansen commented: Shouldn't that be delineated up front on the application with the outline of the property dimensions before a decision is made.

Mr. Marlow commented: There should be a map in your file showing what they are proposing to subdivide out.

Mr. Hansen commented: It's a circular line showing the storm water detention area. Would the garage and office go with that too?

Chairman Rose commented: As I recall, we had a request to approve that building once before. It was 2 buildings on that property. I think we already denied this once before. Are there minutes from that meeting? I think we should investigate that before we move forward.

Mr. Marlow commented: I think that was for the number of bays in the garage.

Chairman Rose commented: There was some kind of request to repair your trucks there and there was a problem with it.

Mr. Brennan commented: There is a report in your package and it talks about the May 5, 2008 minutes which discussed this particular item.

Chairman Rose commented: Yes, back in May 2008.

Mr. Marlow commented: I think that was when it was approved for a 3-bay garage by the Planning Board and the applicant constructed a 4-bay garage and requested a variance for the 4-stall garage and this Board denied it.

Chairman Rose commented: Does everyone have a copy of the minutes in their packet? It looks like we have a copy of the previous actions of this property. The request is different now. Have there been any other changes to the property since 2008 and if there are no more questions we could move forward.

Vice-Chairman Tedrow made a motion to set a public hearing for Monday, May 4, 2015 at 7:00 PM, seconded by Mr. Burdyl. Motion was carried.

The Board will have a site visit on Saturday, May 2, 2015 at 10:30 AM.

Mr. Brennan commented: We need a more detailed map to be available to us for when we are on site.

Mr. Marotta commented: I will make sure I have one at the site meeting.

Mr. Vasilakos, 1 Birchwood Drive – 278.4-2-1

Chairman Rose commented: The applicant is seeking to construct a 1,934 SF retail boutique on the corner of Grooms Road and Birchwood Drive and is in need of an Area Variance in this C-1 Commercial District. This was denied by the Planning Board on January 12, 2015.

Mr. Brian Osterhout of MJ Engineering was present with a proposal for Mr. Vasilakos. The lot area requirement is 25,000 SF we are deficient by 8,074 SF. We have two front yards as this is a corner lot. The frontage requirement is 150' and we are deficient 50' of frontage on Birchwood Drive. We are also required to have 50' front yard setback for the principal structure and would be deficient by 29'7" on Grooms Road. We also abut to a residential district with a requirement of 100' setback or a setback of 50' with fencing or evergreen plantings. The setback on the plan is 36'6" therefore requiring a variance of 63'6" or 13'6" respectively. We do meet the parking requirements of 12 spaces. We are not proposing a dumpster it will be a regular household can. The use is conforming in the C-1 District. We have not spoken to the neighbor regarding fencing or plantings. There will not be a lot of traffic generated from this use.

Mr. Hansen commented: What is being proposed as the buffer between this property and the adjacent single family home? There is no landscaping shown on the plan and no fence.

Mr. Osterhout commented: Correct we haven't looked at that yet. We have to reach out to the neighbor to see what they would prefer.

Vice-Chairman Tedrow commented: Have you had any discussions with the County or the State about the curb cut on Grooms Road that you are proposing?

Mr. Osterhout commented: No I have not.

Chairman Rose commented: We have to get a county wide impact statement on the curb cut right?

Mr. Osterhout commented: It would have to be referred to the County Planning Board.

Mr. Marlow commented: We would need to do a County referral for the project itself not necessarily for the curb cut. There is a good chance they may comment on that but the project itself would have to be looked at by County Planning Board.

Chairman Rose commented: It looks like its ingress only not egress off Groom Road.

Mr. Osterhout commented: That is correct it's a right angle into the site and not a right out. The exit from the site would be on Birchwood Road.

Mr. Hansen commented: You said the Planning Board didn't care for that proposal?

Mr. Osterhout spoke but it was not on the tape.

Chairman Rose commented: There is no mention of it in the denial from January 12, 2015. One of the things I noticed from the last application was the fact that the restricted covenant discussion came up a couple of times. We don't need to worry about that it is something that the Town doesn't consider it's not a Town issue it would be a private civil matter.

Vice-Chairman Tedrow commented: Do you have a concept or Architectural rendering of what the building would look like?

Mr. Osterhout commented: I don't with me but I would be happy to provide that at the public hearing.

Mr. Burdyl commented: I think it would also be useful to have a rendering of the pointed view of the adjoining house on the south side looking north and a representation of what the buffering would look like with plantings and/or the fence.

Mr. Osterhout commented: Sure. It is pretty flat. We would berm that area and plant some evergreens and/or a fence.

Mr. Burdyl commented: We would like to see that proposal.

Chairman Rose commented: Are there any other questions for the applicant?

Mr. Hansen made a motion to set a public hearing for Monday, May 4, 2015 at 7:00 PM, seconded by Mr. Burdyl. Motion was carried.

Chairman Rose commented: We will see you on our site visit on Saturday, May 2, 2015 at 11:45 AM.

For a personal matter, I really wanted to say that I received very sad news in my packet tonight about Lois. I wanted to end the meeting with Lois rather than start the meeting with her.

Chairman Rose commented: Lois passed away recently. She was a member of the Zoning Board of Appeals and was a very much involved member of this team. I always enjoyed Lois and I think her memory will stick in my memory for the rest of my life. Some of the things she would always say made you think twice, she was always a little sharper than I was and that was always fun to know.

Vice Chairman Tedrow commented: She always had a very upbeat attitude here while she was going through her treatments. It is very sad.

Chairman Rose commented: Rest in peace Lois and know that we will be thinking about you for sure.

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

Meeting was adjourned at 8:10 PM.

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