

Zoning Board Minutes - March 1, 2004

Those present at the March 1, 2004 meeting were:

George Hansen – Chairman
Allan Tedrow – Vice Chairman
John Ouimet
Richard Drake
Raymond Rose

Chairman Hansen called the meeting to order at 7:36 p.m.

There was no meeting in February. Motion was made by Mr. Ouimet and seconded by Mr. Drake that the minutes of the January 5, 2004 meeting be approved. Motion carried.

Ed Dalston, 116 Route 236, Use Variance

Mr. Hansen opened the Public Hearing at 7:40pm. Mr. Ed Dalston (applicant) was present to seek a use variance by requesting an approval to allow two residential dwellings on one parcel. Mr. Dalston explained that there is an existing residential home and a garage type structure on the residential zone parcel located at 116 Route 236 in the Town of Halfmoon. Mr. Dalston continued that the existing type garage structure is approximately 80 ft. from the existing home and would not serve the needs of a garage for the existing house. That being, the applicant constructed a detached garage for the existing house. The garage type structure was formerly used as a paint store before zoning in the Town of Halfmoon and is considered a pre-existing, non-conforming structure. The applicant desires to refurbish the pre-existing, non-conforming garage type structure into an apartment. Mr. Dalston stated the apartment would be constructed to have 2-bedrooms, a kitchen, a living area and a loft.

Mr. Tedrow asked where the driveway would be located. Mr. Dalston explained that there is wide access area for the pre-existing non-conforming building but understands the need for a NYSDOT curb cut permit. Mr. Tedrow asked if municipal water and sewer is available. Mr. Dalston explained that there is no public sewer available but the existing house is serviced by public water. Mr. Dalston continued that there is an easement for water through the existing duplexes located on Fellows Road. Mr. Ouimet asked if the proposed apartment building could tie into the public water system. Mr. Dalston stated he could tie off from the water service to his house to serve the proposed apartment. Mr. Hansen stated that there is a main sewer line being installed in the front of the parcel, along Route 236, but would not be able to be connected due to the sewer line being a force main. Mr. Ouimet asked if the sight distance is adequate for the new curb cut. Mr. Dalston stated that the sight distance is very good and has been improved by his cutting down an earth bank. Mr. Drake asked if the Zoning Board should have septic information before making a decision. Mr. Hansen explained that the parcel has adequate lot area for a two-family residential unit with the availability of private septic and public water according to the Town's Zoning Ordinance. Mr. Hansen continued that the applicant would need to submit septic information at the time of applying for a building permit. Mr. Drake asked if the proposed apartment would be considered as an accessory building. Mr. Hansen stated the proposed apartment would be considered as an accessory building with the existing house as a primary structure. Mr. Hansen continued that the proposed apartment has never been occupied and that it was originally a paint store. Mr. Drake asked if the Zoning Board has ever had a similar request in previous years. Mr. Hansen stated yes and that most were new structures to be built and not renovation of an existing structure and some have been disapproved because of the lot being too small for a two-family building. Mr. Ouimet asked if there are any external structures proposed for the apartment such as a deck or porch. Mr. Dalston stated that he may build a small deck on the rear of the building and that there would be no external improvements in the front toward Route 236. Mr. Tedrow stated that when the applicant approached the Zoning Board for a discussion topic in January 2004, it was his opinion to have the land subdivided to separate the two uses (house and proposed apartment). Mr. Tedrow continued that due to the fact that the parcel has frontage on a main highway, he believes it would be of the best interest for the Town to keep the parcel whole for possible future development.

Mr. Hansen added that if the applicant were to subdivide the parcel it would cause the need for several variances (lot area and lot width) and the boundary line would be very erratic. Mr. Ouimet stated he understood that the Town's attorney was to research the issue of two residential units on one parcel. Mr. Hansen stated he received a

correspondence from the Town's attorney stating that the use variance procedure of allowing two residential units on one parcel is the best approach for the applicant for the Town instead of an area variance caused by the subdividing the land. Mr. Drake asked if there would be the need for an area variance for the proposed apartment building due to it not meeting the front-yard setback requirements. Mr. Hansen stated the building is a pre-existing, non-conforming structure, which was built before Zoning laws were in affect in the Town and that the front yard area is not a factor. Mr. Ouimet added that the applicant has stated he will not enlarge the structure toward Route 236. Mr. Rose stated that during a recent site visit, they looked at the sight distance issue and that both the house and the proposed apartment will have adequate sight distance to access onto Route 236. Mr. Ouimet asked if there would be a parking area separate from the driveway. Mr. Dalston stated he plans on placing a parking pad near the rear of the proposed apartment, which will be separate from the driveway. Mr. Ouimet stated he is concerned that if people park on the driveway, it may hinder the sight distance for people accessing from the house driveway. Mr. Dalston stated he plans on placing a parking pad but if people do park on the driveway there would still be good sight distance. Mr. Hansen closed the Public Hearing at 7:56pm.

Mr. Drake made a motion to approve the use variance of allowing two residential units on one parcel. Mr. Ouimet seconded with a contingency stating the parcel area conforms to the lot size requirement of the Town's zoning laws for a two-family residential parcel and the pre-existing, non-conforming building to be converted to an apartment is a unique situation within the limits of the Town. Mr. Drake agreed to the contingency and amended the motion to include the contingency.

Motion carried unanimously.

Halfmoon Gas Plus, 1592 Route 9, Area Variance

Mr. Hansen opened the Public Hearing at 7:59pm. Mr. Steve Weeks (applicant), co-owner of the Halfmoon Gas Plus convenient store, was present to request a side-yard setback variance for a proposed carwash/Laundromat on a vacant commercial parcel adjacent to the Halfmoon Gas Plus (Mobil) convenient store on the corner of Route 9 and Sitterly Rd in the Town of Halfmoon. The requested area variance consists of relief from the required 15ft side-yard setback to a 5ft side-yard setback for a commercial zoned property as described in the Town's Zoning laws. Mr. Weeks explained that they have been in front of the Town's Planning Board for site plan approval for a proposed 3-bay carwash and a self-served Laundromat to be located on a vacant parcel next the Halfmoon Gas Plus store. Mr. Weeks continued that the existing and proposed site would have access from existing curb cuts on Route 9 and Sitterly Rd. There are no proposed improvements to either curb cut. Mr. Weeks explained that he has been in front of the Zoning Board, about 4-years ago, to ask for the same variance for the existing convenient store and was granted the requested relief. Mr. Weeks stated he has tried to look at every aspect of developing the site for the proposed carwash/Laundromat. Originally, the concept depicted a zero side-yard setback but there was a concern with the Town's Planning Board, especially if the parcels were to be under different ownership, for room to maintain the building without having to cross over a property line. Mr. Weeks stated he reduced the size of the building and is now asking for a side-yard variance to 5ft. Mr. Weeks explained the building is placed at its location to allow good internal traffic flow pattern and allow room for a possible cross easement connection with a vacant parcel to the north of the proposed site. Mr. Weeks concluded the presentation by stating he feels the requested variance, if granted, will have no negative aspect to the site and will not alter the character of the surrounding development. Mr. Hansen asked if both commercial sites (Halfmoon Gas Plus and proposed carwash/Laundromat) would have the ability to utilize both existing access points from Route 9 and Sitterly Road. Mr. Weeks stated yes there are shared access easements in place and the internal traffic will be able to circulate around the perimeter of both commercial sites. Mr. Rose asked if a traffic study has been performed. Mr. Weeks stated no that when the convenient store was in front of the Planning Board several years ago, both commercial lots were reviewed and the existing curb cut on Route 9 has been designed to allow shared access to both parcels. Mr. Rose asked if the two commercial parcels were one parcel, would there be need for a variance.

Mr. Weeks explained that the Town's Planning Board brought up the same question but due to the two lots and their uses being financed separately, the lending company will not finance the two commercial uses if adjoined on the same parcel. Mr. Weeks explained that the two parcels were purchased from the Hatlee's separately and at different times. The vacant parcel, the one with the proposed carwash/Laundromat site, was purchased first and then the Halfmoon Gas Plus site was purchased second which was the property of the Hatlee's former house. Mr. Rose asked why is there a need of two businesses on the site and not one (a carwash or a Laundromat). Mr. Weeks stated it is a business management decision. The two uses do not compliment each other and they are used at different times but the utilities needed to operate them are very similar. Mr. Weeks continued that the

car wash's busy time is Dec.- Feb. with peak times being the best days of the winter weather (sunny). The Laundromat is used throughout the year with staggering times of usage and there is no one busy time. Mr. Weeks explained that in a business sense, to offset the lull times for the carwash, the Laundromat would create the needed revenue to cover the cost of the utilities needed to run the operation. Mr. Ouimet asked if the applicant looked into a two-bay carwash instead of the proposed 3-bay carwash and if a variance would be needed for the two-bay approach. Mr. Weeks stated 75% of the revenue created from the carwash is in the winter months. Mr. Weeks continued that he has reviewed several other existing carwash sites and that most have a 3-bay carwash and that it is needed to create the earnings to cover the infrastructure for the carwash. Mr. Ouimet stated that if the Zoning Board grants the 5ft setback it goes with the land and if the use were to change that granted variance would cause problems in the future. Mr. Weeks stated that the original proposal to the Planning Board depicted a zero side yard line, which raised concerns amongst the Planning Board. Mr. Weeks continued that he reduced the size of the building but had a strong need to create proper internal traffic flow so that vehicles could safely circulate around the two commercial sites in addition to the desire of allowing room for the cross easement to the vacant parcel to the north of the site. The need to create a safe internal traffic flow coupled with the need of a 3-bay carwash to make the project work created the need to ask for the 5ft side-yard setback. Mr. Hansen asked Mr. Berkowitz if the Planning Board was comfortable with the proposed project. Mr. Berkowitz stated yes and that the Planning Board has reviewed the stacking issue for the carwash and recommended stacking to the side and rear of the proposed building rather in the front, which may cause problems on Route 9. Mr. Berkowitz explained that the Town's engineer report had minimal comments.

Mr. Rose asked if the applicant meets the four criteria's to request a variance. Mr. Ouimet stated that it sounds to be self-created but listening to the applicant's explanation of the need for a safe internal traffic flow, the stacking area and the cross easement issue he is more comfortable with the request. Mr. Hansen stated that an area variance does not need to meet the four criteria as a use variance does because the difference between an area variance request and a use variance request is the intensity of the possible impact. Mr. Rose asked if the variance request could be contingent on the proposed use only and if the use were to change the variance would be voided. Mr. Hansen and Mr. Berkowitz stated any change to the site would need site plan approval from the Planning Board, to say if the building was removed and a new building with a new use was proposed. If the new site plan needed a variance it would need to be addressed by the Zoning Board. Mr. Drake asked if the applicant is proposing to funnel the traffic to Sitterly Road access instead of people trying to make a left hand turn onto Route 9 from the Route 9 access. Mr. Weeks explained that taking a left hand turn onto Route 9 from the Route 9 access is not difficult; especially since the State has placed a turning lane down the median of Route 9; except for the morning rush hour commute. Mr. Drake stated that weekend traffic can be very busy and the possibility of pulling in additional traffic to the area to use the proposed carwash/Laundromat, it may be better to reconfigure the layout to the proposed building so that customers would use the Sitterly Rd access and the traffic light at the Route 9 intersection. Mr. Weeks explained the stacking for the carwash is desired to be on the side and rear of the proposed building and not in front, which may cause problems with the Route 9 access, and the need to allow the customers to circulate around the perimeter of the site, the building is at its best location. Mr. Rose stated the access to Sitterly, with regards to making a left hand turn out of the Halfmoon Gas Plus site, is also difficult due to limited sight distance. Mr. Weeks explained that he has never witnessed an accident from the two access areas serving the Halfmoon Gas Plus site. Mr. Weeks states that most accidents occur when people are trying make a left hand turn onto Sitterly Rd. from Route 9. There is a green arrow when southbound traffic on Route 9 is stopped. The accidents occur when people making a left turn on full green and crossing the southbound traffic. Unlike the green arrow at Wal-Mart that changes to full green, the traffic light at Sitterly Road goes from full green to green arrow, which should be safer if southbound traffic on Route 9 does not try to run the red light. Mr. Rose explained taking a left hand turn out of the gas station is difficult and there is a proposal for an indoor soccer complex, which may add additional traffic.

Mr. Berkowitz stated the Planning Board approved the Quik Ag addition to site plan and with the approval, the applicant is to thin out the brush along Sitterly Road to improve the sight distance. Mr. Ouimet stated that if the Planning Board and CHA have decided the traffic safety issue is adequate then he feels it is being addressed. Mr.

Ouimet stated the applicant has worked on the needs for internal traffic flow and the safety issues with traffic and the circulation between the two sites and that the 5ft side yard request may not be all that problematic. Mr. Ouimet asked if there is enough area for snow removal from the carwash area. Mr. Weeks there are radiant heating pads as you enter and exit the carwash to control ice build up. Mr. Weeks continued that there is adequate area to manage snow removal. Mr. Ouimet asked what type of carwash is proposed. Mr. Weeks stated it would be a touch free carwash. Mr. Hansen asked what the distance was between the existing Halfmoon Gas Plus store and the proposed location to the proposed carwash/Laundromat. Mr. Weeks stated the existing convenient store gained an area variance of 5ft and the proposed location of the carwash/Laundromat would have a 10ft separation if the closest corners of each building were drawn on parallel lines. The greatest distance is about 24ft. Mr. Drake asked if the cross easement with the vacant lands to the north of the site was required or asked by the Planning Board. Mr. Weeks stated he placed a note on the map stating if requested by the Planning Board and an agreement between the two property owners that the cross easement would be put into effect. The idea is good planning to allow an internal connection between two commercial sites and assists on keeping traffic off of Route 9 (in this case). Mr. Weeks stated there is no commitment for the cross easement from the landowner to the north at this time. Mr. Berkowitz added the cross easement is also beneficial for a secondary emergency access. Mr. Hansen closed the Public Hearing at 8: 39 pm. Mr. Rose made a motion to approve the 5ft side yard setback as requested. Mr. Ouimet seconded. Motion carried unanimously.

Mr. Tedrow made a motion to adjourn the March 1, 2004 Town of Halfmoon Zoning Board of Appeals meeting at 8:41pm. Mr. Ouimet seconded. Motion carried unanimously.

Respectfully Submitted,
Jeffrey R. Williams
ZBA Coordinator