

**May 1, 2006
Town of Halfmoon
Zoning Board of Appeals
Meeting Minutes**

Chairman George Hansen opened the May 1, 2006 Town of Halfmoon Zoning Board of Appeals meeting at 7:30pm with the following members present: Chairman Hansen, Vice-Chairman Tedrow, Mr. Burdyl, Mrs. Jordan, and Mr. Brennan. Also in attendance was alternate Mrs. Smith-Law. Absent was Mr. Rose.

Chairman Hansen asked if the Board reviewed the April 3, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes.

Mrs. Jordan made a motion to approve the April 3, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes with noted changes. Mr. Tedrow seconded. Motion carried.

There was a malfunction with the tape-recording of the May 1, 2006 meeting. The following minutes were transcribed strictly from notes taken at the meeting.

William and Carmella Lussier, 1385 Crescent-Vischer Ferry Rd, Area Variance

Gil VanGuilder of VanGuilder and Associates stated that a previous approval for an area variance had been granted to allow a 2.2ft setback from the eastern property line for a roofed structure. A retaining wall along the eastern edge of the property was used as a foundation for the structure. This variance was granted with the following conditions: that there would be no more than 5 vehicles stored there at any time, it would be roofed with 3 sides open, and that there would not be access to this structure from the main shop area. Mr. Lussier would now like the Board to reconsider the previous conditions. He is seeking relief to enclose the structure and heat it. Mr. VanGuilder stated that when the original application was made to the Board it was understood that this was to be used as a storage area. Mr. Lussier is now taking a second look at his business and has decided that this area would best be used as additional shop area. Mr. Lussier feels that the storage area is not secure or safe if left open, as the structure is hidden and out of sight from the road, leaving it vulnerable to theft or vandalism. Mr. Eric Tanski and Mr. Russell Harding, owners of the property to the north, submitted a letter stating that they have no objections to enclosing the structure. The Fire Chief for the Halfmoon-Waterford Fire Department also submitted a letter stating that there were no concerns from their standpoint with the ability to access the site in the event of a fire providing that the entrance to the site is kept uncongested. Mr. Burdyl asked how many doors there would be on the proposed enclosed structure. Mr. Lussier stated that there would be two doors to the outside, one at each end of the structure, and one standard size door allowing entrance into the main shop area. Mrs. Jordan asked if the enclosed area would be used for storage or as an extension of the shop. Mr. Lussier stated he would be storing his large equipment in the area and would work on them there as needed. Mrs. Jordan asked if the equipment has been, and is currently, stored outside. Mr. Lussier stated that the equipment is stored outside and that it has always been a concern for him. He stated that he recently had fuel stolen from a piece of large equipment that was parked outside. Mrs.

Jordan asked when the retaining wall on the slope was built. Mr. Lussier stated that it was built a couple of years ago to hold the slope back that was not stable at the time. Mrs. Jordan asked if the slope could affect the retaining wall if it was going to be used as a foundation wall. Mr. Lussier stated that the slope is now stable, as it has vegetation that has grown since the wall was built. He stated that the water that does drain down the slope is directed to either side of the retaining wall. Mr. Brennan asked why the three restrictions were placed on the use variance at the time it was granted. Mr. Hansen stated that the original application was for an open structure. He stated that the Board did not discuss the permitted number of cars or the entrance to the building, but that a motion was made with those restrictions by a Board member and was seconded and approved. Mr. Brennan asked if the proposed enclosed area would be for storage and not for an extension of the shop for working on vehicles. Mr. VanGuilder stated that Mr. Lussier would like to store his large equipment and work on them in the new area. Mrs. Jordan stated that a possible reason for the restriction of the entrance to the main shop area from the storage area was to restrict the use of the area for work as he would be required to have fans to filter the air from fumes and exhaust. Mr. Lussier stated that the shop is currently set up with an air circulation system that provides relief from the exhaust and fumes of the body shop. He stated that he not only does body work but also mechanical work as well and that the area variance was granted with his first application to the Board and he is now asking for relief from the conditions placed on it. Mrs. Jordan asked if Mr. Lussier had begun construction on the site prior to obtaining the initial variance. Mr. Lussier stated that he had made a mistake in putting the structure up prior to getting the variance, but that he had had the Board down to the site to visit it then and he was still not sure as to why the restrictions were placed on the variance. Mrs. Smith-Law asked if the letter from the Fire Department had been submitted to the Board. Mr. Hansen stated that it had. Mr. Hansen asked if anyone from the public would like to speak. No one responded. Mrs. Jordan asked if there were any other possible solutions. Mr. Lussier stated that the only other solution would be for him to purchase the property from Mr. Tanski and Mr. Harding, but that the land could not be utilized by either party due to the slope, so it would only mean moving the property line. Mrs. Jordan stated that she was concerned with the use of the new area and that it seems to be more of an addition to the main shop rather than a storage area. Mr. Lussier stated that he would be storing his large equipment in the new area and working on them as needed. He stated that he had originally wanted to enclose the area but had made a mistake in his original application when the area variance was granted. Mrs. Jordan stated that she had concerns with the safety in relation to Article XIV, section 1403, part C of Town of Halfmoon Local Laws Relating to Zoning. Mr. Tedrow stated that he also had concerns with the safety of the slope. Mr. VanGuilder stated that the slope was unstable at the time that the wall was built, as there was no vegetation or growth that was stabilizing the area. He stated that the slope has now been stabilized with vegetation and the retaining wall. Mr. Lussier stated that silt had been running off the slope and his equipment was getting stuck, he did not know at the time that a permit was required to put the retaining wall in. Mrs. Smith-Law asked if the Fire Department could get onto the slope in the event of a fire to access the building through the existing vegetation. Mr. Lussier stated yes and that the slope was a three on one grade that was reviewed by CHA when the site plan came before the Planning Board for the original application for the site. Mr. Brennan asked if the Fire

Department was aware of the use of the proposed enclosure. Mr. Lussier stated that when he spoke with the Fire Department, he told them that he would have his large equipment in that area. Mr. Brennan asked how many doors there would be on the enclosed area. Mr. VanGuilder stated that the number of doors has not been determined yet and that the proposal would be going back to the Planning Board for an addition to the site plan for review. Mr. Hansen referred to the five tests in the Town of Halfmoon Local Law, Article XIV, section 1403, part B, number 2 determining that there will not be an undesirable change to the character of the neighborhood, that there is not a discernable alternative for the applicant to pursue to achieve his goals, that it is substantial, that it will not have an adverse affect on the physical environmental characteristic of the neighborhood, and that it was a self-created hardship. Mr. Brennan made a motion to approve the request to remove the three conditions that were placed on the area variance as stated subject to site approval by the Planning Board. Mr. Burdyl seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-nay, Mr. Burdyl-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

Dudick Chiropractic, 377 Route 146, Sign Area Variance

Mr. Dudick stated that he is applying for a variance from 10 SF for a commercial sign in a residential zone to 64 SF. He is proposing an 8x4, double-sided, internally lit sign for his chiropractic office. He received a variance to use the building that is located in a residential zone for a commercial office space. Mr. Dudick stated that he had erected a mock sign of the 10 SF and one at 64 SF for the ZBA members to compare on the site. He is proposing to make the sign a total of 10 ft high and freestanding. Mr. Dudick stated that he attended the public meeting on the Route 146 Corridor study where his property was shown as possibly being changed from residential to commercial zone in the future. Mr. Hansen asked if anyone from the public would like to speak. No one responded. Mr. Hansen stated that the placement of the sign could not be in the NYS right of way. Mr. VanGuilder stated that the sign would be placed well outside of the ROW as proposed. Mr. Dudick stated that due to the uniqueness of the property and site distance from either direction on Rte. 146, a larger sign is necessary so that passersby could see and read the sign. He stated that due to the word "chiropractic" it is necessary to have a longer sign in order to make the font of the lettering large enough to read. Mrs. Jordan stated that having visited the sight, she does believe that a larger sign is necessary for safety and visibility reasons. Mr. Burdyl asked what the total height of the sign would be and how it would be lit. Mr. Dudick stated that the sign would be 10 ft high and internally lit. Mr. Hansen referred to the tests in the Town of Halfmoon Local Law, Article XIV, section 1403, part B, number 2 determining that there will not be an undesirable change to the character of the neighborhood, that there is not a discernable alternative for the applicant to pursue to achieve his goals, that it is substantial, that it will not have an adverse affect on the physical environmental characteristic of the neighborhood, and that it was a self-created hardship. Mrs. Jordan made a motion to approve the area variance for the sign to allow 64 SF. Mr. Tedrow seconded. The vote was as follows: Mr. Brennan-nay, Mrs. Jordan-aye, Mr. Burdyl-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

Gayle and Paul Allen, 465 Hudson River Road, Area Variance

Mr. Allen stated that he is seeking an area variance to add an addition to his home that would need to decrease the minimum setback required from 30 ft to .4 ft, and that the property to the rear of his home is currently owned by the NYS Canal Corp. He stated that he received a letter from the NYS Canal Corporation stating that a decision would be made in the near future that would allow the Allens to either purchase the property or purchase a long term lease, either of which option would permit them to build a permanent structure on that land. Mr. Burdyl asked if Mr. Allen could make a copy of the lease available to the Town in the event that Mr. Allen does sign a long-term lease. Mr. Allen stated yes. Mr. Brennan asked how deep the Canal Corp property was between the house and the river. Mr. Allen stated 70 ft. Mr. Hansen asked if anyone wished to speak. No one responded. Mr. Hansen referred to the tests in the Town of Halfmoon Local Law, Article XIV, section 1403, part B, number 2 determining that there will not be an undesirable change to the character of the neighborhood, that there is not a discernable alternative for the applicant to pursue to achieve his goals at this time unless the property was made available for purchase or long term lease, that it is not substantial, that it will not have an adverse affect on the physical environmental characteristic of the neighborhood, and that it was a self-created hardship. Mr. Brennan made a motion to approve the area variance to allow a .4 ft setback to the rear property line. Mr. Tedrow seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Burdyl-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

Betty Floud, 223 Cary Road, Use Variance

Dave Flanders, of David A. Flanders Associates, stated that Mrs. Floud is seeking a use variance to allow a residential use in a light industrial-commercial zone on a 4-acre parcel that they are hoping to subdivide from a 41-acre parcel off of Cary Rd. Mrs. Jordan made a motion to set the public hearing for Monday June 5, 2006. Mr. Burdyl seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Burdyl-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

Lawrence and Joyce Tucker, 259 Lower Newtown Road, Area Variance

Larry Tucker stated that they are seeking an area variance to allow for a second flag lot. Mr. Tucker stated that he owns a 3.86-acre parcel that has frontage on Lower Newtown Road and Allen Drive with an existing single-family house. The existing house accesses the site from Lower Newtown Road with frontage of 54.72 ft. and the frontage on Allen Drive is 47.51 ft. The applicant wishes to subdivide the property to create a 1.93-acre parcel with frontage on Allen Drive. This proposed action would leave a 1.94-acre parcel with the existing house and with frontage on Lower Newtown Road. Mr. Tedrow made a motion to set a public hearing for Monday June 5, 2006. Mrs. Jordan seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Burdyl-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

Mr. Brennan made a motion to adjourn the May 1, 2006 Zoning Board of Appeals meeting. Mrs. Jordan seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Burdyl-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.